

**NEVADA DEPARTMENT OF  
CONSERVATION & NATURAL RESOURCES**

**STATE ENVIRONMENTAL COMMISSION**

**HEARING ARCHIVES FOR**

**REGULATORY PETITIONS**

**COMMISSION PETITION NO. 95010**

**LEGISLATIVE COUNSEL BUREAU (LCB) FILE NO. R-032-95**

**DOCUMENTS INCLUDED IN THIS FILE:**

**YES SECRETARY OF STATE FILING FORM**

**YES DISCLOSURE STATEMENT PURSUANT TO NRS 233B**

**REGULATORY PETITIONS**

**ORIGINAL DRAFTED BY COMMISSION**

**ADOPTED BY COMMISSION**

**YES AS FILED AND CODIFIED BY LCB**

Secretary of State  
Filing Data

For Filing Administrative  
Regulations

For Emergency  
Regulations Only

Effective Date \_\_\_\_\_

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\_\_\_\_\_  
Governor's Signature

### Nevada State Environmental Commission

Classification [ ] Proposed [ ] Adopted By Agency [xx] Temporary [ ] Emergency [ ]

**Brief description of action:** Petition 95010 permanently amends NAC 445B.001 to 445B.395, the state air pollution regulations. This petition consolidates temporary petitions 95001, 95002, 95004, 95005, and 95010. The petition modifies the effective dates of Nevada's Air Quality Operating Permit Program by extending the date of implementation from November 14, 1994 to a date in the future based on the U.S. EPA Administrator's approval of program. In addition, references to Permits to Construct are being deleted and supplanted with references to Operating Permits. The petition amends NAC 445B.221 by the adoption by reference of the provisions of 40 C.F.R. Part 72, the acid rain provisions of the Clean Air Act. Also amended is NAC 445B.362 and 445B.363 by changing the formula for calculating emissions of particulate matter (PM<sub>10</sub>). The proposed amendments modify and clarify references to "air contaminant" or "air pollutant" to address "regulated air pollutant". In addition, references to "source" are proposed to be changed to "stationary source" or "major source". The term portable source in NAC 445B.137 is proposed to be deleted and substituted with "temporary source". The reporting of excess emissions in NAC 445B.232 is clarified and various provisions in the regulations are extended beyond current sunset dates. NAC 445B.327 is proposed to be clarified such that service and maintenance fees are charged by emission units and not by permitted sources. NAC 445B.295 is proposed to be amended to provide authority to the Director to establish a list of insignificant activities based upon "de minimis" emissions.

**Authority citation other than 233B:** NRS 445.461 and 445.491

**Notice date:** August 31, September 6 and September 12, 1995

**Hearing date:** October 3, 1995

**Date of Adoption of Agency:** October 3, 1995

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED  
BY ADMINISTRATIVE PROCEDURES ACT, NRS 233B.066  
PETITION 95010  
LCB FILE R-032-95**

The following statement is submitted for adopted amendments to Nevada Administrative Code (NAC) 445B.

**1. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.**

Petition 95010 (R-032-95) was noticed three (3) times: August 31, 1995, September 6, 1995 and September 12, 1995 in the Las Vegas Review and Reno Gazette-Journal newspapers. No public comment was received. A copy of the written comments may be obtained by calling the Nevada State Environmental Commission (702) 687-4670, or writing in to the Commission at 333 W. Nye Ln., Room 128, Carson City, Nevada 89710.

**2. The number persons who:**

- (a) Attended each hearing;
- (b) Testified at each hearing;
- (c) Submitted to the agency written comments:

**3. A description of how comment was solicited from affected businesses, a summary of their response, and a explanation how other interested persons may obtain a copy of the summary.**

Comments were solicited from affected businesses by the notices in the newspapers, as outlined in #1 and by direct mail to interested persons subscribing to the Commission's mailing list. Verbal comments were made by a representative of Sierra Pacific Power Co. at the hearing. The comments focused on the need for minor corrections to clarify applicability of and usage of the term "emission unit". A copy of the written comments, as ascribed in the minutes may be obtained by calling the Nevada State Environmental Commission (702) 687-4670 or writing in to the Commission at 333 W. Nye Ln., Room 128, Carson City, Nevada 89710.

**4. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.**

The permanent regulation was adopted at the State Environmental Commission hearing on October 3, 1995 with minor corrections to various sections. This petition combines temporary petitions 95001, 95002, 95004, 95005 and 95010.

**5. The estimated economic effect of the adopted regulation on the business which it is to regulate and on the public. These must be stated separately, and each case must include:**

- (a) Both adverse and beneficial effects: and
- (b) Both immediate and long-term effects.

- a. The proposed amendments to the NAC are anticipated to have a short-term beneficial economic impact on the regulated community by delaying the implementation of the air quality operating permit program. This deferral will eventually require a substantial effort on the part of the regulated community to prepare and submit appropriate Title V applications. The proposed amendments to the NAC will allow regulated facilities will pay less fees in FY 1996 and FY 1997 than currently projected. Each regulated facility will pay approximately the same fee in each of these fiscal years as was paid in FY 1995, depending upon changes in the respective facility's operations, emissions and permitting requirements. The proposed amendments only impact those sources which emit pollutants acid rain pollutants (sulfur dioxide and oxides of nitrogen) in significant quantities and will result in increased monitoring efforts on the part of the affected sources. Applicability is generally limited to fossil fuel fired electric generating units. Since the acid rain provisions are requirements of the federal Clean Air Act, these sources will be subject to these provisions at the federal level if no action is taken by the State regulatory agency.
- b. The amendments may result in increased rate costs to electricity consumers as implementation costs may be passed along by the electric generating companies. However, because this is already a federal requirement for electric utilities subject to the acid rain provisions of the Clean Air Act, no additional impact is expected as a result of this regulation amendment.

**6. The estimated cost to the agency for enforcement of the adopted regulation.**

There is no additional cost to the agency for enforcement.

**7. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.**

There are no other state or government agency regulations which the proposed amendments duplicate.

**8. If the regulation includes provisions which are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.**

These regulations are consistent with federal regulations and they are not more stringent than the federal regulations.

**9. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.**

This regulation does not impose a new fee or increase an existing fee.

**ADOPTED PERMANENT REGULATION OF THE  
NEVADA STATE ENVIRONMENTAL COMMISSION**

**LCB File No. R032-95**

EXPLANATION--Matter in *italics* is new; matter in [ ] brackets is material to be omitted; underscored is SEC amended language.

AUTHORITY: NRS 445.461 and 445.491

**Section 1.** Chapter 445B of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 4, inclusive, of this regulation.

**Sec. 2.** *"Commission" means the state environmental commission.*

**Sec. 3.** *"Temporary source" means any building, structure, facility or installation which:*

- 1. Emits or may emit any regulated air pollutant;*
- 2. May be moved from one location to another; and*
- 3. Is located or operated in a location for a period of less than 12 months.*

**Sec. 4.** *1. Within 30 days after the approval of the program by the administrator, the director shall:*

*(a) Establish a schedule for filing a Class I-A application to obtain a Class I operating permit for:*

- (1) An existing major source;*
- (2) An existing major source subject to a standard, a limitation or any other requirement adopted pursuant to 42 U.S.C. § 7411 or 7412, unless the source is subject only to the requirements of 42 U.S.C. § 7412(r);*
- (3) An existing major source in a category of sources designated by the administrator pursuant to 42 U.S.C. § 7661a(a); or*
- (4) An incinerator unit for solid waste that is subject to the requirements of 42 U.S.C. § 749(e).*

*(b) Notify the owners and operators of the sources listed in paragraph (a) regarding the schedule established by the director.*

*2. The schedule established by the director pursuant to subsection 1:*

- (a) Must require the submission of Class I-A applications within 12 months of the effective date of the program.*
- (b) May require the early submission of Class I-A applications by specified stationary sources if early submission is necessary for the state department of conservation and natural resources to process all Class I-A applications pursuant to NAC 445B.300 and 445B.303.*
- (c) Must be based upon the number of emission units to be addressed in the operating permit for each stationary source so that the stationary sources with the least number of emission units will submit applications first and those sources with the largest number of emission units will submit applications last.*

**Sec. 5.** NAC 445B.005 is hereby amended to read as follows:

445B.005 "Affected facility" means, with reference to a stationary or **[portable] temporary** source, any apparatus to which a standard is applicable.

**Sec. 6.** NAC 445B.006 is hereby amended to read as follows:

445B.006 "Affected source" means a **stationary** source subject to the requirements relating to acid rain set forth in 42 U.S.C. §§ 7651-7651o, inclusive.

**Sec. 7.** NAC 445B.010 is hereby amended to read as follows:

445B.010 "Air contaminant" [means any substance discharged into the atmosphere except water vapor and water droplets] *has the meaning ascribed to it in NRS 445.411.*

**Sec. 8.** NAC 445B.013 is hereby amended to read as follows:

445B.013 "Allowable emissions" means the emissions from a **stationary** source at its designed maximum capacity or at its actual maximum capacity, whichever is greater, except as reduced by any federally enforceable limitations on its emissions which are established:

1. By Nevada laws or regulations;
2. By any applicable requirement; or
3. By conditions of the **stationary** source's operating permit, imposed on the emission rate, the type or amount of materials combusted or processed, the operating rates, the hours of operation or any other factor limiting production or emission, whichever is most stringent.

For Class II sources that are not subject to federal requirements, emission limitations need not be federally enforceable.

**Sec. 9.** NAC 445B.014 is hereby amended to read as follows:

445B.014 "Alteration" means any addition to, or enlargement, replacement, modification or change of the design, capacity, process, arrangement, operating hours or control apparatus that will affect the kind or amount of **[air contaminants] regulated air pollutants** emitted.

**Sec. 10.** NAC 445B.015 is hereby amended to read as follows:

445B.015 "Alternative method" means any method of sampling and analyzing for **[an] a regulated** air pollutant which is not a reference or equivalent method, but which has been demonstrated to the satisfaction of the director that, in specific cases, it produces results adequate to determine compliance.

**Sec. 11.** NAC 445B.016 is hereby amended to read as follows:

445B.016 "Alternative operating scenarios" means two or more modes or types of operation specifically identified by a **stationary** source in its application and approved by the director as a condition or as conditions of the source's operating permit.

**Sec. 12.** NAC 445B.019 is hereby amended to read as follows:

445B.019 "Applicable requirement" means, as applied to an emission unit in a Class I source:

1. Any standard or other relevant requirement:
  - (a) Provided in NRS 445.401 to 445.601, inclusive, and NAC 445B.001 to 445B.395, inclusive;
  - (b) Provided in the applicable implementation plan approved or adopted by the EPA pursuant to 42 U.S.C. §§ 7401-7515, inclusive;
  - (c) For a hazardous air pollutant adopted pursuant to 42 U.S.C. § 7412, including any requirement regarding the prevention of accidental releases;
  - (d) For a program to control acid rain adopted pursuant to 42 U.S.C. §§ 7651-7651o, inclusive;
  - (e) For enhanced monitoring or for compliance certification adopted pursuant to 42 U.S.C. § 7413(a)(3) or 7661c(b);
  - (f) For solid waste incineration units adopted pursuant to 42 U.S.C. § 7429;
  - (g) For consumer and commercial products or tank vessels adopted pursuant to 42 U.S.C. § 7511b; and
  - (h) For the protection of stratospheric ozone adopted pursuant to 42 U.S.C. §§ 7671-7671q, inclusive, unless the administrator determines that such provisions are not required in an operating permit;
2. A new source performance standard adopted pursuant to 42 U.S.C. § 7411;
3. Any term or condition of any permit issued pursuant to the requirements of 42 U.S.C. §§ 7401-7515, inclusive,

including provisions regarding the prevention of significant deterioration of air quality and new source review; and

4. Any national ambient air quality standard or requirement regarding increments or visibility adopted pursuant to 42 U.S.C. §§ 7470-7492, inclusive, as the standard applied to a temporary [**, portable**] source for which the owner or operator has applied for an obtained an operating permit pursuant to NAC 445B.300 and 445B.331.

**Sec. 13.** NAC 445B.025 is hereby amended to read as follows:

445B.025 "Barite dryer" means any [**single**] *stationary* source designed to reduce the moisture content of crude barite by the use of heat.

**Sec. 14.** NAC 445B.026 is hereby amended to read as follows:

445B.026 "Barite grinding mill" means any [**single**] *stationary* source designed to reduce crude barite to a finished product.

**Sec. 15.** NAC 445B.028 is hereby amended to read as follows:

445B.028 1. For a *stationary* source that is subject to the provisions of 40 C.F.R. § 52.21, "best available control technology" has the meaning ascribed to it in 40 C.F.R. § 52.21, as incorporated by reference in NAC 445B.221.

2. For a *stationary* source that is not subject to the provisions of 40 C.F.R. § 52.21, "best available control technology" means a technology which reduces the emission of particulate matter, sulfur dioxide, nitrogen oxides, hydrocarbons, carbon monoxide, lead, beryllium, mercury, fluoride, vinyl chloride, total reduced sulfur, hydrogen sulfide, reduced sulfur compounds, *hazardous air pollutants*, and toxic [**or hazardous air contaminants**] *regulated air pollutants* to the maximum extent possible for any source for which preparation of an environmental evaluation is required, taking into account:

- (a) Energy;
- (b) Environmental impacts;
- (c) Economic impacts; and
- (d) Other costs for emission control systems and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for the control of each *regulated air pollutant*.

**Sec. 16.** NAC 445B.035 is hereby amended to read as follows:

445B.035 "Class I-B application" means an application for a Class I operating permit that is required for any new *stationary* source or significant modification to an existing *stationary* source which is subject to the requirements of 42 U.S.C. §§ 7661-7661f, inclusive.

**Sec. 17.** NAC 445B.036 is hereby amended to read as follows:

445B.036 "Class I source" means any *stationary* source which is subject to the requirements of 42 U.S.C. §§ 7661-7661f, inclusive.

**Sec. 18.** NAC 445B.037 is hereby amended to read as follows:

445B.037 "Class II source" means any *stationary* source which is not subject to the requirements of 42 U.S.C. §§ 7661-7661f, inclusive, but which is otherwise subject to the requirements of NAC 445B.001 to 445B.395, inclusive.

**Sec. 19.** NAC 445B.049 is hereby amended to read as follows:

445B.049 "Criteria pollutant" means [**an**] *a regulated* air pollutant for which the administrator has established a national ambient air quality standard.

**Sec. 20.** NAC 445B.059 is hereby amended to read as follows:

445B.059 "Emission unit" means a part of a stationary **[or portable]** source which emits or has the potential to emit any *regulated air* pollutant. **[regulated under the act.]**

**Sec. 21.** NAC 445B.062 is hereby amended to read as follows:

445B.062 "Equivalent method" means any method of sampling and analyzing for **[an] a regulated** air pollutant which has been demonstrated to the director's satisfaction to have a consistent and quantitatively known relationship to the reference method under specified conditions.

**Sec. 22.** NAC 445B.065 is hereby amended to read as follows:

445B.065 "Existing facility" with reference to a stationary **[or portable]** source means any apparatus of the type for which a standard is adopted in NAC 445B.001 to 445B.601, inclusive, the construction or modification of which was commenced before the date on which the standard was proposed or any apparatus which could be altered in such a way as to be of that type.

**Sec. 23.** NAC 445B.066 is hereby amended to read as follows:

445B.066 "Existing *stationary* source" means;

1. For *stationary* sources subject to 42 U.S.C. § 7412, any stationary source other than a new *stationary* source.
2. For all other *stationary* sources, a stationary source which was constructed, or for which the owner or operator submitted a complete application for **[a permit to construct,] an operating permit**, before the effective date of the program.

**Sec. 24.** NAC 445B.068 is hereby amended to read as follows:

445B.068 "Facility" includes any groups of activities which emit *regulated air* pollutants, are located on one or more contiguous properties and are owned, operated or controlled by the same person.

**Sec. 25.** NAC 445B.077 is hereby amended to read as follows:

445B.077 "Fugitive emissions" means emissions of any *regulated air* pollutants, including fugitive dust, which do not pass through the stack, chimney, vent or a functionally equivalent opening.

**Sec. 26.** NAC 445B.082 is hereby amended to read as follows:

445B.082 "General permit" means an operating permit issued by the director to cover numerous similar *stationary* sources.

**Sec. 27.** NAC 445B.094 is hereby amended to read as follows:

445B.094 1. Except as otherwise provided in subsection 2, "major source" means any stationary source or group of stationary sources that:

- (a) Is located on one or more contiguous or adjacent properties;
- (b) Is under the common control of the same person or persons;
- (c) Belongs to a single major industrial grouping as described in the "Standard Industrial Classification Manual," as incorporated by reference in NAC 445B.221; and
- (d) Complies with one of the following:
  - (1) Is located in a nonattainment area and is required to obtain an operating permit pursuant to 42 U.S.C. §§ 7501 to 7515, inclusive; or
  - (2) Directly emits or has the potential to emit:

(I) One hundred tons per year or more of any **regulated** air pollutant; or

(II) Ten tons per year or more of a hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants or a lesser quantity as established by the commission.

The director shall consider fugitive emissions in determining whether a **stationary** source is major for any source category listed in 40 C.F.R. § 52.21 (b), as adopted by reference pursuant to NAC 445B.221, or whether a **stationary** source of a hazardous air pollutant is a major source. To determine whether a stationary source or group of stationary sources is a major source of hazardous air pollutants under 42 U.S.C. § 7412, emissions from any oil or gas exploration or production well, with its associated equipment, and emissions from any pipeline compressor or pump station must not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control.

2. For the purposes of the program for the prevention of significant deterioration of air quality (PSD), "major source" has the meaning ascribed to it in 40 C.F.R. § 52.21(b)(1), as adopted by reference in NAC 445B.221.

**Sec. 28.** NAC 445B.096 is hereby amended to read as follows:

445B.096 "Maximum achievable control technology" means any measure, process, method, system or technique applied to a **stationary** source which provides the maximum degree of reduction in the emission of hazardous air pollutants as follows:

1. For new **stationary** sources, the maximum degree of reduction in emissions must be no less stringent than the control of emissions that is achieved in practice by the best controlled similar **stationary** source, as determined by the administrator.

2. For existing **stationary** sources, the maximum degree of reduction in emissions must be no less stringent than the requirements set forth in 42 U.S.C. § 7412(d)(3).

**Sec. 29.** NAC 445B.099 is hereby amended to read as follows:

445B.099 "Modification" means any physical change in, or change in the method of operation of a stationary source which:

1. Increases the amount of any **regulated** air pollutant, to which a standard applies, emitted into the atmosphere by that **stationary** source; or

2. Results in the emission of any **regulated** air pollutants, to which a standard applies, into the atmosphere if the **regulated** air pollutants were not previously emitted.

**Sec. 30.** NAC 445B.108 is hereby amended to read as follows:

445B.108 "New **stationary** source" means:

1. For **stationary** sources subject to the requirements of 42 U.S.C. § 7412, a stationary source for which the owner or operator commenced construction or reconstruction after the administrator proposed regulations pursuant to 41 U.S.C. § 7412 which established an emission standard applicable to the **stationary** source.

2. For all other **stationary** sources, a stationary source or modification for which an owner or operator has not submitted a complete application for **[a permit to construct] an operating permit** before the effective date of the program.

**Sec. 31.** NAC 445B.112 is hereby amended to read as follows:

445B.112 "Nonattainment area" means, for any **regulated** air pollutant, an area:

1. Which is shown by monitored data or is calculated by air quality modeling or any other method determined by the administrator to be reliable, to exceed any national standard of ambient air quality for the **regulated** air pollutant; and

2. Which is designated as a nonattainment area by the governor.

3. Which is promulgated as a nonattainment area by the administrator.

**Sec. 32.** NAC 445B.116 is hereby amended to read as follows:

445B.116 "Odor" means a characteristic of **[an air contaminant]** *a regulated air pollutant* which makes it perceptible to the sense of smell.

**Sec. 33.** NAC 445B.117 is hereby amended to read as follows:

445B.117 "Offset" means a reduction in emissions at an existing *stationary* source which is greater than a corresponding increase in emissions of the same *regulated air* pollutant at a new *stationary* source or a modification of a *stationary* source in the same nonattainment area.

**Sec. 34.** NAC 445B.130 is hereby amended to read as follows:

445B.130 "Pathological wastes" means human and animal remains consisting of carcasses, organs and solid organic wastes from hospitals, laboratories, abattoirs, animal pounds and similar *stationary* sources.

**Sec. 35.** NAC 445B.138 is hereby amended to read as follows:

445B.138 "Potential to emit" means the maximum capacity of a stationary source to emit **[any]** *a regulated* air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a *stationary* source to emit **[an]** *a regulated* air pollutant, including equipment for the control of air pollution and any restrictions on the *stationary* source's hours of operation or on the type or amount of material combusted, stored, or processed, may be treated as part of its design for the purposes of determining its potential to emit if the limitation is enforceable by the director and the administrator, or by the director for Class II sources not subject to federal requirements.

**Sec. 36.** NAC 445B.145 is hereby amended to read as follows:

445B.145 "Process weight" means the total weight of all materials introduced into **[a single source operation]** *an emission unit* including solid fuels, but excluding liquids and gases used solely as fuels and air introduced for purposes of combustion of the fuel.

**Sec. 37.** NAC 445B.152 is hereby amended to read as follows:

445B.152 "Reference method" means any method of sampling and analyzing for **[an]** *a regulated* air pollutant as described in Appendix A of 40 C.F.R. § 60.

**Sec. 38.** NAC 445B.153 is hereby amended to read as follows:

445B.153 "Regulated air pollutant" means"

1. Nitrogen oxides or any volatile organic compounds;

2. Any pollutant subject to:

(a) A national ambient air quality standard; or

(b) A standard or requirement adopted pursuant to 42 U.S.C. § 7411 or 7412; or

**(c) A standard established pursuant to NAC 445B.391; or**

3. Any Class I or Class II substance subject to a standard adopted pursuant to 42 U.S.C. §§ 7671-7671q, inclusive.

**Sec. 39.** NAC 445B.177 is hereby amended to read as follows:

445B.177 "Source" **[means any property, real or personal, which directly emits or may emit any air contaminant.]** *has the meaning ascribed to it in NRS 445.446.*

**Sec. 40.** NAC 445B.180 is hereby amended to read as follows:

445B.180 "Stack" or "chimney" means any flue, conduit or duct which conducts **[an air contaminant]** *a regulated air*

*pollutant* to the atmosphere.

**Sec. 41.** NAC 445B.187 is hereby amended to read as follows:

445B.187 "Stationary source" means any building, structure, facility or installation, *including temporary sources*, which emits or may emit any *regulated* air pollutant and which contains any one or a combination of the following:

1. Affected facilities;
2. Existing facilities; and
3. Facilities for which no standards have been adopted.

**Sec. 42.** NAC 445B.196 is hereby amended to read as follows:

445B.196 "Toxic *regulated* air [**contaminant**] *pollutant*" means a substance designated as such by the commission based upon the commission's determination of the extent to which the substance presents a risk to the public health.

**Sec. 43.** NAC 445B.221 is hereby amended to read as follows:

445B.221 1. Title 40 C.F.R. §§ 51.100(s), 51.100(hh) to 51.100 (kk), inclusive, 51.100(nn) and 51.165, and 52.21 and Appendix S of Title 40 C.F.R. Part 51 are hereby adopted by reference as they existed on July 1, 1993.

2. The following subparts of Title 40 C.F.R. Part 60 are hereby adopted by reference as they existed on July 1, 1993:

- (a) Subpart A, General Provisions.
- (b) Subpart D, Standards of Performance for Fossil-Fuel Fired Steam Generators for Which Construction is Commenced After August 17, 1971.
- (c) Subpart Da, Standards of Performance for Electric Utility Steam Generating Units for Which Construction is Commenced After September 18, 1978.
- (d) Subpart Dc, Standards of Performance for Small Industrial-Commercial-Institutional Steam Generating Units.
- (e) Subpart E, Standards of Performance for Incinerators.
- (f) Subpart Ea, Standards of Performance for Municipal Waste Combustors.
- (g) Subpart F, Standards of Performance for Portland Cement Plants.
- (h) Subpart G, Standards of Performance for Nitric Acid Plants.
- (i) Subpart H, Standards of Performance for Sulfuric Acid Plants.
- (j) Subpart I, Standards of Performance for Asphalt Concrete Plants.
- (k) Subpart J, Standards of Performance for Petroleum Refineries.
- (l) Subpart K, Standards of Performance for Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After June 11, 1973, and Prior to May 19, 1978.
- (m) Subpart Ka, Standards of Performance for Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After May 18, 1978, and Prior to July 23, 1984.
- (n) Subpart Kb, Standards of Performance for Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction, or Modification Commenced After July 23, 1984.
- (o) Subpart L, Standards of Performance for Secondary Lead Smelters.
- (p) Subpart M, Standards of Performance for Secondary Brass and Bronze Production Plants.
- (q) Subpart N, Standards of Performance for Primary Emissions from Basic Oxygen Process Furnaces for Which Construction is Commenced After June 11, 1973.
- (r) Subpart Na, Standards of Performance for Secondary Emissions from Basic Oxygen Process Steelmaking Facilities for Which Construction is Commenced After January 20, 1983.
- (s) Subpart O, Standards of Performance for Sewage Treatment Plants.
- (t) Subpart P, Standards of Performance for Primary Copper Smelters.
- (u) Subpart Q, Standards of Performance for Primary Zinc Smelters.
- (v) Subpart R, Standards of Performance for Primary Lead Smelters.

Petition 95010 (LCB File No. R-032-95) was adopted by Environmental Commission on October 3, 1995.

LCB R032-95 incorporates the temporary regulations previously adopted by the State Environmental Commission in Petition 95001, 95002, 95004, 95005 and 95010. R-032-95 became effective upon filing with the Secretary of State on October 30, 1995 by the Legislative Counsel Bureau (LCB).

**CODIFIED 2/26/96**

- (w) Subpart S, Standards of Performance for Primary Aluminum Reduction Plants.
- (x) Subpart T, Standards of Performance for the Phosphate Fertilizer Industry: Wet-Process Phosphoric Acid Plants.
- (y) Subpart U, Standards of Performance for the Phosphate Fertilizer Industry: Superphosphoric Acid Plants.
- (z) Subpart V, Standards of Performance for the Phosphate Fertilizer Industry: Diammonium Phosphate Plants: Diammonium Phosphate Plants.
- (aa) Subpart W, Standards of Performance for the Phosphate Fertilizer Industry: Triple Superphosphate Plants.
- (bb) Subpart X, Standards of Performance for the Phosphate Fertilizer Industry: Granular Triple Superphosphate Storage Facilities.
- (cc) Subpart Y, Standards of Performance for Cool Preparation Plants.
- (dd) Subpart Z, Standards of Performance for Ferroalloy Production Facilities.
- (ee) Subpart AA, Standards of Performance for Steel Plants: Electric Arc Furnaces Constructed After October 21, 1974, and on or Before August 17, 1983.
- (ff) Subpart AAa, Standards of Performance for Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels Constructed After August 7, 1983.
- (gg) Subpart BB, Standards of Performance for Kraft Pulp Mills.
- (hh) Subpart CC, Standards of Performance for Glass Manufacturing Plants.
- (ii) Subpart DD, Standards of Performance for Grain Elevators.
- (jj) Subpart EE, Standards of Performance for Surface Coating of Metal Furniture.
- (kk) Subpart GG, Standards of Performance for Stationary Gas Turbines.
- (ll) Subpart HH, Standards of Performance for Lime Manufacturing Plants.
- (mm) Subpart KK, Standards of Performance for Lead-Acid Battery Manufacturing Plants.
- (nn) Subpart LL, Standards of Performance for Metallic Mineral Processing Plants.
- (oo) Subpart MM, Standards of Performance for Automobile and Light-Duty Truck Surface Coating Operations.
- (pp) Subpart NN, Standards of Performance for Phosphate Rock Plants.
- (qq) Subpart PP, Standards of Performance for Ammonium Sulfate Manufacture.
- (rr) Subpart QQ, Standards of Performance for the Graphic Arts Industry: Publication Rotogravure Printing.
- (ss) Subpart RR, Standards of Performance for Pressure Sensitive Tape and Label Surface Coating Operations.
- (tt) Subpart SS, Standards of Performance for Industrial Surface Coating: Large Appliances.
- (uu) Subpart TT, Standards of Performance for Metal Coil Surface Coating.
- (vv) Subpart UU, Standards of Performance for Asphalt Processing and Asphalt Roofing Manufacture.
- (ww) Subpart VV, Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry.
- (xx) Subpart WW, Standards of Performance for the Beverage Can Surface Coating Industry.
- (yy) Subpart XX, Standards of Performance for Bulk Gasoline Terminals.
- (zz) Subpart DDD, Standards of Performance for Volatile Organic Compound (VOC) Emissions from the Polymer Manufacturing Industry.
- (aaa) Subpart FFF, Standards of Performance for Flexible Vinyl and Urethane Coating and Printing.
- (bbb) Subpart GGG, Standards of Performance for Equipment Leaks of VOC in Petroleum Refineries.
- (ccc) Subpart HHH, Standards of Performance for Synthetic Fiber Production Facilities.
- (ddd) Subpart III, Standards of Performance for Volatile Organic Compound (VOC) Emissions From the Synthetic Organic Chemical Manufacturing Industry (SOCMI) Air Oxidation Unit Processes.
- (eee) Subpart JJJ, Standards of Performance for Petroleum Dry Cleaners.
- (fff) Subpart KKK, Standards of Performance for Equipment Leaks of VOC from Onshore Natural Gas Processing Plants.
- (ggg) Subpart LLL, Standards of Performance for Onshore Natural Gas Processing: SO<sub>2</sub> Emissions.
- (hhh) Subpart NNN, Standards of Performance for Volatile Organic Compound (VOC) Emissions from Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation Operations.

- (iii) Subpart OOO, Standards of Performance for Nonmetallic Mineral Processing Plants.
- (jjj) Subpart PPP, Standards of Performance for Wool Fiberglass Insulation Manufacturing Plants.
3. Title 40 C.F.R. Part 60, Subpart UUU, Standards of Performance for Calciners and Dryers in Mineral Industries, is hereby adopted by reference as it existed on September 28, 1992. A copy of Subpart UUU may be obtained free of charge from the Nevada Bureau of Air Quality, 333 West Nye Lane, Carson City, Nevada 89710.
4. The following subparts of Title 40 C.F.R. Part 61 are hereby adopted by reference as they existed on July 1, 1993.
- (a) Subpart A, General Provisions.
  - (b) Subpart C, National Emission Standard for Beryllium.
  - (c) Subpart D, National Emission Standard for Beryllium Rocket Motor Firing.
  - (d) Subpart E, National Emission Standard for Mercury.
  - (e) Subpart F, National Emission Standard for Vinyl Chloride.
  - (f) Subpart BB, National Emission Standard for Benzene Emissions from Benzene Transfer Operations.
  - (g) Subpart FF, National Emission Standard for Benzene Waste Operations.
5. ***Title 40 C.F.R. Part 72 is hereby adopted by reference as it existed on February 16, 1995. If the provisions of 40 C.F.R. Part 72 conflict with or are not included in NAC 445B.001 to 445B.395, inclusive, the provisions of 40 C.F.R. Part 72 apply.***
6. Title 42 of the United States Code, section 7412(b), List of Hazardous Air Pollutants, is hereby adopted by reference as it existed on November 3, 1993.
- [6.] 7. The "Standard Industrial Classification Manual," 1987 edition, published by the United States Office of Management and Budget, is hereby adopted by reference. A copy of the manual may be obtained from the Superintendent of Documents, United States Government Printing Office, Washington, D.C. 20402, or 450 Golden Gate Avenue, Room 1023, San Francisco, California 94102 for the price of \$24.
- [7.] 8. Except as otherwise provided in subsections 3 and [6.] 7, a copy of the publications which contain these provisions may be obtained from the:
- (a) Superintendent of Documents, United States Government Printing Office, Washington, D.C. 20402, or 450 Golden Gate Avenue, Room 1023, San Francisco, California 94102. The price is:
 

(1) For §§ 51.100(s) to 51.100(hh) to 51.100(kk), inclusive,	
and 51.100 (nn) .....	\$[31] 39
(2) For Part 51, Appendix S .....	[33] 39
(3) For § 51.165 .....	[33] 39
(4) For § 52.21 .....	[33] 39
(5) For Part 60 .....	36
(6) For Part 61 .....	[16] 41
(7) <b><i>For Part 72</i></b> .....	<b><i>41</i></b>
  - (b) Division of state library and archives ***of the department of museums, library and arts*** for 15 cents per page.
- [8.] 9. For the purposes of the provisions of Parts 60 and 61, Chapter I, Title 40, Code of Federal Regulations adopted pursuant to this section, the director may not approve alternate or equivalent test methods or alternative standards or work practices.
- [9.] 10. ***Except as otherwise provided in subsection 5, the*** provisions adopted by reference in this section supersede the requirements of NAC 445B.001 to 445B.395, inclusive, for all ***stationary*** sources subject to the provisions adopted by reference only if those requirements adopted by reference are more stringent.
- [10.] 11. For the purposes of this section, "administrator" as used in the provisions of Parts 60 and 61, Chapter I, Title 40, Code of Federal Regulations adopted pursuant to this section means the director.

**Sec. 44.** NAC 445B.224 is hereby amended to read as follows:

445B.224 1. The director shall maintain all public information obtained in the course of the performance of the duties set forth in NRS 445.401 to 445.710, inclusive, at 123 West Nye Lane, Carson City, Nevada 89710.

2. The content of an operating permit is public information and cannot be certified as confidential information.

3. Information concerning the emission of **[an air contaminant] a regulated air pollutant** which has an ambient air quality standard or emission standard or has been designated as a hazardous air pollutant by the EPA cannot be certified as being confidential.

4. An owner or operator who submits information under a claim of confidentiality shall submit:

(a) One copy of the information to the director; and

(b) One copy of the information to the administrator.

**Sec. 45.** NAC 445B.225 is hereby amended to read as follows:

445B.225 No person may install, construct or use any device which conceals any emission without reducing the total release of **[air contaminants] regulated air pollutants** to the atmosphere.

**Sec. 46.** NAC 445B.227 is hereby amended to read as follows:

445B.227 Except as provided in NAC 445B.001 to 445B.395, inclusive, no person may:

1. Operate any **stationary** source of air pollution unless the necessary or required equipment for controlling the pollution is installed and operating.

2. Disconnect, alter or remove any necessary or required equipment for controlling pollution or modify any necessary or required procedure.

**Sec. 47.** NAC 445B.229 is hereby amended to read as follows:

445B.229 Without limiting the authority of any state officer to declare or to act on an emergency, the director or local air pollution control agency, upon determining that a generalized condition of air pollution exists or that the emission from one or more **[single] stationary** sources of **[air contaminants] regulated air pollutants** is causing a danger to human health or safety, may order persons causing or contributing to the air pollution to immediately reduce or discontinue all emission of contaminants.

**Sec. 48.** NAC 445B.230 is hereby amended to read as follows:

445B.230 1. Any person who is able to cause or permit the emission of 100 tons (90.7 metric tons) or more per year of **[an air contaminant] a regulated air pollutant** from a stationary source shall prepare and submit to the director a plan for reducing or eliminating that emission in accordance with the episode stages of alert, warning and emergency as defined in the air quality plan for the State of Nevada.

2. Any person required to have an operating permit who is able to cause or permit the emission of less than 100 tons (90.7 metric tons) per year of **[an air contaminant] a regulated pollutant** shall, upon written notice from the director, prepare and submit to the director a plan for reducing or eliminating that emission in accordance with the episode stages of alert, warning and emergency as defined in the air quality plan for the State of Nevada.

3. The written notice required under subsection 2 must be transmitted in accordance with subsection 3 of NAC 445B.275 to all persons who are within the same classification of sources as defined in the Standard Industrial Classification Manual, **[1972,] 1987**, and who are able to cause or permit the emission of less than 100 tons (90.7 metric tons) per year of **[an air contaminant] a regulated air pollutant**.

**Sec. 49.** NAC 445B.232 is hereby amended to read as follows:

445B.232 1. Scheduled maintenance or testing or scheduled repairs which may result in excess emissions of **[air**

Petition 95010 (LCB File No. R-032-95) was adopted by Environmental Commission on October 3, 1995.

LCB R032-95 incorporates the temporary regulations previously adopted by the State Environmental Commission in Petition 95001, 95002, 95004, 95005 and 95010. R-032-95 became effective upon filing with the Secretary of State on October 30, 1995 by the Legislative Counsel Bureau (LCB).

**contaminants] regulated air pollutants** prohibited by NAC 445B.001 to 445B.395, inclusive, must be approved by the director and performed during a time designated by the director as being favorable for atmospheric ventilation.

2. The director must be notified in writing of the time and expected duration at least 24 hours in advance of any scheduled maintenance which may result in excess emissions of **[air contaminants] regulated air pollutants** prohibited by NAC 445B.001 to 445B.395, inclusive.

3. The director must be notified in writing or by telephone of the time and expected duration at least 24 hours in advance of any scheduled repairs which may result in excess emissions of **[air contaminants] regulated air pollutants** prohibited by NAC 445B.001 to 445B.395, inclusive.

4. The director must be notified of any excess emissions within 24 hours after any malfunction or upset of the process equipment or equipment for controlling pollution or during startup or shutdown of such equipment. The telephone number for the notification is **[(702) 687-5065] 702-687-4670**.

5. The owner or operator of an affected facility shall provide the director, within 15 days after any malfunction, upset, startup, shutdown or human error, **which results in excess emissions** sufficient information to enable the director to determine the seriousness of the excess emissions. The information must include at least the following:

- (a) The identity of the stack or other point of emission, or both, where the excess emissions occurred.
- (b) The estimated magnitude of the excess emissions expressed in opacity or in the units of the applicable limitation on emission and the operating data and methods used in estimating the magnitude of the excess emissions.
- (c) The time and duration of the excess emissions.
- (d) The identity of the equipment causing the excess emissions.
- (e) If the excess emissions were the result of a malfunction, **the** steps taken to remedy the malfunction and the steps taken or planned to prevent the recurrence of the malfunction.
- (f) The steps taken to limit the excess emissions.
- (g) Documentation that the equipment for controlling air pollution, process equipment or processes were at all times maintained and operated, to a maximum extent practicable, in a manner consistent with good practice for minimizing emissions.

**Sec. 50.** NAC 445B.233 is hereby amended to read as follows:

445B.233 1. The director shall determine from the submission of data and information required in subsection 5 of NAC 445B.232 or other information available to him that no violation occurred if:

- (a) The excess emission was the result of a routine startup or shutdown for purposes of controlling production;
- (b) The amount and duration of the excess emissions were minimized to the extent practicable during the period of startup or shutdown; and
- (c) Any one of the following conditions existed:
  - (1) The effluent gas could not be passed through the equipment for controlling pollution without causing severe property damage.
  - (2) The effluent gas could not be passed through the equipment for controlling pollution without causing severe upset of the process.
  - (3) The excess emission was the result of igniter smoke which could not be controlled by the equipment for control used for normal operation.

2. If the owner or operator misrepresents facts or fails to disclose facts of which he had prior knowledge, the director shall deem that the period of excess emissions violates NAC 445B.001 to 445B.395, inclusive.

3. Nothing in this section limits the obligation of the owner or operator of the **stationary** source to attain and maintain the standards for ambient air quality promulgated in NAC 445B.391 or the authority of the director to institute actions under sections 113 and 303 of the **[Clean Air]** Act or to exercise his authority under NRS 445.401 to 445.601, inclusive.

**Sec. 51.** NAC 445.238 is hereby amended to read as follows:

445B.238 1. Except as *otherwise* provided under NAC 445B.240, 445B.242 and 445B.245, any physical or operational change to an existing facility which results in an increase in the emission rate to the atmosphere of any **regulated air** pollutant to which a standard applies is considered a modification within the meaning of section 111 of the Act. Upon modification, an existing facility becomes an affected facility for each **regulated air** pollutant to which a standard applies and for which there is an increase in the emission rate to the atmosphere.

2. The addition of an affected facility to a stationary source as an expansion to that source or as a replacement for an existing facility does not by itself bring within the applicability of NAC 445B.235 to 445B.250, inclusive, any other facility within that source.

**Sec. 52.** NAC 445B.239 is hereby amended to read as follows:

445B.239 1. The rate of emission must be expressed in pounds per hour of any **regulated air** pollutant discharged into the atmosphere for which a standard is applicable. The director shall use the following to determine the rate of emission:

(a) Factors of emission as specified in the latest issue of "Compilation of Air Pollutant Emission Factors," EPA Publication No. AP-42, or other factors of emission determined by the director to be superior to those in that publication, in cases where the use of factors of emission demonstrates that the level of emission resulting from the physical or operational change will either clearly increase or clearly not increase; and

(b) Material balances, data from continuous monitors or manual tests for emission in cases where the use of factors of emission does not demonstrate to the director's satisfaction whether the level of emission resulting from the physical or operational change will either clearly increase or clearly not increase, or where an owner or operator demonstrates to the director's satisfaction that there are reasonable grounds to dispute the result obtained by the director using factors of emission.

2. When the rate of emission is based on results from manual tests for emission or systems for continuous observation, the procedures specified in Appendix C of 40 C.F.R. § 60 must be used to determine whether an increase in the rate of emission has occurred. Tests must be conducted under such conditions as the director specifies to the owner or operator based on the representative performance of the facility. At least three valid tests must be conducted before and at least three after the physical or operational change. All operating parameters which may affect emissions must be held constant to the maximum feasible degree for each running of a test.

**Sec. 53.** NAC 445B.240 is hereby amended to read as follows:

445B.240 1. A modification shall not be deemed to occur if an existing facility undergoes a physical or operational change where the owner or operator demonstrates to the director's satisfaction (by any of the procedures prescribed under NAC 445B.239) that the total emission rate of any **regulated air** pollutant has not increased from all facilities within the stationary source to which appropriate reference, equivalent or alternative methods can be applied.

2. An owner or operator may completely and permanently close any facility within a stationary source to prevent an increase in the total emission rate regardless of whether such reference, equivalent or alternative method can be applied, if the decrease in emission rate from such closure can be adequately determined by any of the procedures prescribed under NAC 445B.239.

3. The owner or operator of the **stationary** source has the burden of demonstrating compliance with this section.

**Sec. 54.** NAC 445B.241 is hereby amended to read as follows:

445B.241 1. Demonstration by the owner or operator of compliance with NAC 445B.240 must be in writing and include:

- (a) The name and address of the owner or operator.
- (b) The location of the stationary source.

(c) A complete description of the existing facility undergoing the physical or operational change resulting in an increase in emission rate, any applicable control system and the physical or operational change to such facility.

(d) The emission rates into the atmosphere from the existing facility of each **regulated air** pollutant to which a standard applies determined before and after the physical or operational change takes place, to the extent such information is known or can be predicted.

(e) A complete description of each facility and the control systems, if any, for those facilities within the stationary source where the emission rate of each **regulated air** pollutant in question will be decreased to compensate for the increase in emission rate from the existing facility undergoing the physical or operational change.

(f) The emission rates into the atmosphere of the **regulated air** pollutants in question from each facility described in paragraph (e), both before and after the improvement or installation of any applicable control system or any physical or operational changes to such facilities to reduce the emission rate.

(g) A complete description of the procedures and methods used to determine the emission rates.

2. Compliance with NAC 445B.240 may be demonstrated by the methods listed in NAC 445B.239 where appropriate. Decreases in emissions resulting from requirements of a state implementation plan approved or promulgated under 40 C.F.R. Part 52 will not be acceptable. The required reduction in emission rates may be accomplished through the installation or improvement of a control system or through physical or operational changes to facilities including reducing the production of a facility or closing a facility.

3. Emission rates established for the existing facility which is undergoing a physical or operational change resulting in an increase in the emission rate, and established for the facilities described under paragraph (e) of subsection 1 become the baseline for determining whether such facilities undergo a modification or are in compliance with standards.

4. Any emission rate in excess of that rate established under subsection 3 is a violation of NAC 445B.001 to 445B.395, inclusive, except as otherwise provided in NAC 445B.242. But any owner or operator electing to demonstrate compliance under NAC 445B.240 must apply to the director to obtain the use of any exemptions under subsections 2 to 4, inclusive, of NAC 445B.242. The director will grant such exemption only if, in his judgment, the compliance originally demonstrated under this section will not be circumvented or nullified by the utilization of the exemption.

**Sec. 55.** NAC 445B.242 is hereby amended to read as follows:

445B.242 The following are not by themselves considered modifications under NAC 445B.235 to 445B.250, inclusive:

1. Maintenance, repair and replacement which the director determines to be routine for a source category, subject to the provisions of subsection 2 of NAC 445B.238 and NAC 445B.247.

2. An increase in the production rate of an existing facility, if that increase can be accomplished without a capital expenditure on the stationary source containing that facility, unless the change would be prohibited by an enforceable restriction on the permit.

3. An increase in the hours of operation, unless the change would be prohibited by an enforceable restriction on the permit.

4. Use of an alternative fuel or raw material if, prior to the date any standard under NAC 445B.235 to 445B.250, inclusive, becomes applicable to that source type, the existing facility was designed to accommodate that alternative use. A facility is considered to be designed to accommodate that alternative use. A facility is considered to be designed to accommodate an alternative fuel or raw material if that use could be accomplished under the facility's construction specifications, as amended, prior to the change. Conversion to coal required for energy considerations, as specified in section 119(d)(5) of the Act, is not considered a modification.

5. The addition or use of any system or device whose primary function is the reduction of **regulated air** pollutants, except when an emission control system is removed or is replaced by a system which the director determines to be less environmentally beneficial.

6. The relocation or change in ownership of an existing facility.

**Sec. 56.** NAC 445B.250 is hereby amended to read as follows:

445B.250 Any owner or operator subject to the provisions of NAC 445B.235 to 445B.250, inclusive, shall furnish the director written notification of:

1. The date construction (or reconstruction as defined under NAC 445B.247) of an affected facility is commenced, postmarked no later than 30 days after such date. This requirement does not apply in the case of mass-produced facilities which are purchased in completed form.
2. The anticipated date of initial startup of an affected facility, postmarked not more than 60 days nor less than 30 days prior to such date.
3. The actual date of initial startup of an affected facility, postmarked within 15 days after such date.
4. Any physical or operational change to an existing facility which may increase the emission rate of any **regulated** air pollutant to which a standard applies, unless that change is specifically exempted under an applicable section or in NAC 445B.238 to 445B.245, inclusive, and the exemption is not denied under those sections. This notice must be postmarked 60 days or as soon as practicable before the change is commenced and must include information describing the precise nature of the change, present and proposed emission control systems, productive capacity of the facility before and after the change and the expected completion date of the change. The director may request additional relevant information subsequent to this notice.
5. The date upon which demonstration of the continuous monitoring system performance commences in accordance with NAC 445B.256 to 445B.267, inclusive. Notification must be postmarked not less than 30 days prior to such date.

**Sec. 57.** NAC 445B.252 is hereby amended to read as follows:

445B.252 1. To determine compliance with NAC 445B.001 to 445B.395, inclusive, before the approval or the continuance of an operating permit or similar class of permits, the director may either conduct or order the owner of any **stationary** source to conduct or have conducted such testing and sampling as the director determines necessary. Testing and sampling or either of them must be conducted and the results submitted to the director within 60 days after achieving the maximum rate of production at which the affected facility will be operated, but not later than 180 days after initial startup of the facility and at such other times as may be required by the director.

2. Tests of performance must be conducted and data reduced in accordance with the methods and procedures of the test contained in each applicable subsection of this section unless the director:

- (a) Specifies or approves, in specific cases, the use of a method of reference with minor changes in methodology;
- (b) Approves the use of an equivalent method;
- (c) Approves the use of an alternative method, the results of which he has determined to be adequate for indicating whether a specific **stationary** source is in compliance; or
- (d) Waives the requirement for tests of performance because the owner or operator of a **stationary** source has demonstrated by other means to the director's satisfaction that the affected facility is in compliance with the standard.

3. Tests of performance must be conducted under such conditions as the director specifies to the operator of the plant based on representative performance of the affected facility. The owner or operator shall make available to the director such records as may be necessary to determine the conditions of the test of performance. Operations during periods of start-up, shut down and malfunction must not constitute representative conditions of a test of performance unless otherwise specified in the applicable standard.

4. The owner or operator of an affected facility shall give notice to the director 30 days before the test of performance to allow the director to have an observer present. A written testing procedure for the test of performance must be submitted to the director at least 30 days before the test of performance to allow the director to review the proposed testing procedures.

5. Each test of performance must consist of at least three separate runs using the applicable method for that test. Each run must be conducted for the time and under the conditions specified in the applicable standard. For the purpose of determining compliance with an applicable standard, the arithmetic means of results of the runs apply. In the event of

forced shut down, failure of an irreplaceable portion of the sampling train, extreme meteorological conditions or other circumstances with less than three valid samples being obtained, compliance may be determined using the arithmetic mean of the results of the other two runs upon the director's approval.

6. All testing and sampling will be performed in accordance with recognized methods and as specified by the director.

7. The cost of all testing and sampling and the cost of all sampling holes, scaffolding, electric power and other pertinent allied facilities as may be required and specified in writing by the director must be provided and paid for by the owner of the **stationary** source.

8. All information and analytical results of testing and sampling must be certified as to their truth and accuracy and as to their compliance with all provisions of these regulations, and copies of these results must be provided to the director no later than 60 days after the testing or sampling, or both.

**Sec. 58.** NAC 445B.256 is hereby amended to read as follows:

445B.256 The owners or operators of all stationary sources identified in Appendix P of 40 C.F.R. § 51(1.1) as amended from time to time, are required to install, calibrate, operate and maintain all monitoring equipment necessary for continuously monitoring the pollutants specified in Appendix P for the applicable source category. Those **stationary** sources must meet the basic requirements of Appendix P of 40 C.F.R. § 51(2.0 et seq.).

**Sec. 59.** NAC 445B.267 is hereby amended to read as follows:

445B.267 Upon written application by an owner or operator, the director may approve alternatives to any monitoring procedures or requirements of NAC 445B.256 to 445B.267, inclusive, including, but not limited to the following:

1. Alternative monitoring requirements when installation of a continuous monitoring system or monitoring device specified by those sections would not provide accurate measurements due to liquid water or other interferences caused by substances with the effluent gases.

2. Alternative monitoring requirements when the affected facility is infrequently operated.

3. Alternative monitoring requirements to accommodate continuous monitoring systems that require additional measurements to correct for stack moisture conditions.

4. Alternative locations for installing continuous monitoring systems or monitoring devices when the owner or operator can demonstrate that installation at alternate locations will enable accurate and representative measurements.

5. Alternative methods of converting **regulated air** pollutant concentration measurements to units of the standards.

6. Alternative procedures for performing daily checks of zero and span drift that do not involve use of span gases or test cells.

7. Alternatives to the A.S.T.M. test methods or sampling procedures specified by any provision of NAC 445B.256 to 445B.267, inclusive.

8. Alternative continuous monitoring systems that do not meet the design or performance requirements in Performance Specification 1, Appendix B of 40 C.F.R. § 60, but adequately demonstrate a definite and consistent relationship between their measurements and the measurements of opacity by a system complying with the requirements in Performance Specification 1. The director may require that such demonstration be performed for each affected facility.

9. Alternative monitoring requirements when the effluent from a single affected facility or the combined effluent from two or more affected facilities are released to the atmosphere through more than one point.

**Sec. 60.** NAC 445B.273 is hereby amended to read as follows:

445B.273 1. All new and existing **stationary** sources must comply with NAC 445B.001 to 445B.395, inclusive. Existing **stationary** sources are in compliance with those sections and may continue to operate under the provisions of their approved compliance schedules, which may be amended from time to time.

2. Compliance schedules must contain specific progress steps that will be taken toward achieving compliance.

3. The commission may require periodic reports on each phase of progress under approved compliance schedules. Failure

at any phase to make diligent and reasonable progress toward compliance with the approved compliance schedule is an unreasonable delay and subjects the operator of the **stationary** source to administrative fines as provided in NAC 445B.281.

4. In approving compliance schedules, the commission will take into consideration the social and economic effect of the schedule, including, but not limited to, its effect on the availability of fuels, energy, transportation and employment.

**Sec. 61.** NAC 445B.275 is hereby amended to read as follows:

445B.275 1. Failure to comply with any requirement of NAC 445B.001 to 445B.395, inclusive, any applicable requirement or any condition of an operating permit constitutes a violation. As required by NRS 445.526, the director shall issue a written notice of an alleged violation to any owner or operator for any violation, including, but not limited to:

- (a) Failure to apply for an obtain an operating permit;
- (b) Failure to construct a **stationary** source in accordance with the application for an operating permit as approved by the director.
- (c) Failure to construct or operate a **stationary** source in accordance with any condition of an operating permit.
- (d) Commencing construction or modification of a **stationary** source without applying for and receiving an operating permit or a modification of an operating permit as required by NAC 445B.001 to 445B.395, inclusive.
- (e) Failure to comply with any requirement for recordkeeping, monitoring, reporting or compliance certification contained in an operating permit; or
- (f) Failure to pay fees as required by NAC 445B.327 or 445B.331.

2. The written notice must specify the provision of NAC 445B.001 to 445B.395, inclusive, the condition of the operating permit or the applicable requirement that is being violated.

3. Written notice shall be deemed to have been served if delivered to the person to whom addressed or if sent by registered or certified mail to the last known address of the person.

**Sec. 62.** NAC 445B.277 is hereby amended to read as follows:

445B.277 1. The director shall issue a stop order if:

- (a) The proposed construction, installation, alterations or establishment will not be in accordance with the provisions of the plans, specifications and other design material required to be submitted as part of the application for an operating permit and approved by the director as a condition of the operating permit; or
- (b) The design material or the construction itself is of such a nature that it patently cannot bring the **stationary** source into compliance with NAC 445B.001 to 445B.395, inclusive.

2. A stop order may be issued at any time by the director upon his determination that there has been a violation of any of the provisions of NAC 445B.001 to 445B.395, inclusive, any applicable requirement or any condition of the operating permit.

3. A person served with a stop order:

- (a) Shall immediately stop all activities specified in the stop order.
- (b) May apply for its revocation at any time, setting forth the facts upon which he believes that the reasons for the issuance of the stop order no longer exist. If the director finds that the reasons for the issuance of the stop order no longer exist, he shall withdraw the order promptly. If the director finds that the reasons for the issuance of the stop order still exist, or that other reasons exist for continuing a stop order in effect, he shall, within 24 hours, serve a written statement of his reasons for so finding.

**Sec. 63.** NAC 445B.287 is hereby amended to read as follows:

445B.287 1. Unless exempted pursuant to NAC 445B.293, **[a separate] an operating permit or permit to construct** is required for each new and existing **stationary** source. A **[separate] modification of an operating permit or of a permit to**

**construct** is required for each modified **stationary** source. An owner or operator must obtain an operating permit or modification of an operating permit before the commencement of construction or alteration of any **stationary** source. **[of an air contaminant.]**

2. An operating permit **or permit to construct** may not be transferred from one owner or piece of equipment to another. An owner or operator may apply for an administrative amendment reflecting a change of ownership or the name of the **stationary** source for the effective time remaining on the original operating permit pursuant to NAC 445B.319.

3. *For the purposes of this section, "permit to construct" means a document issued and signed by the director before November 1, 1995, certifying that:*

- (a) Adequate empirical data for a stationary source has been received and constitutes approval of location; or*
- (b) All portions of NAC 445B.300 to 445B.313, inclusive, and any other provisions of NAC 445B.001 to 445B.395, inclusive, have been complied with and constitutes approval of location and for construction.*

**Sec. 64.** NAC 445B.289 is hereby amended to read as follows:

445B.289 An owner or operator must file a Class I-A application and obtain a Class I operating permit for:

1. An existing major source;
2. An existing major source subject to a standard, a limitation or any other requirement adopted pursuant to 42 U.S.C. § 7411 or 7412, unless the **stationary** source is subject only to the requirements of 42 U.S.C. § 7412(r);
3. An existing major source in a category of sources designated by the administrator pursuant to 42 U.S.C. § 7661a(a);
4. An incinerator unit for solid waste that is subject to the requirements of 42 U.S.C. § 7429(3); or
5. An affected source.

**Sec. 65.** NAC 445B.290 is hereby amended to read as follows:

445B.290 An owner or operator must file a Class I-B application and obtain a Class I operating permit before commencing the construction, reconstruction or modification of:

1. A proposed new major source;
2. A proposed significant modification, **as defined in NAC 445B.322**, to an existing **stationary** source;
3. A proposed new **major** source subject to a standard, a limitation or any other requirement adopted pursuant to 41 U.S.C. § 7411 or 7412, unless the **major** source is subject only to the requirements of 42 U.S.C. § 7412(r); or
4. A proposed new **stationary** source which is included in a category of sources designated by the administrator pursuant to 42 U.S.C. § 7661a(a).

**Sec. 66.** NAC 445B.291 is hereby amended to read as follows:

445B.291 1. An owner or operator of any **stationary** source that is not subject to the requirements of NAC 445B.289 or 445B.290 shall submit an application for and obtain a Class II operating permit. For a proposed new **stationary** source or a proposed modification to an existing **stationary** source that is not subject to the requirements of NAC 445B.289 or 445B.290, an owner or operator shall file an application and obtain a Class II operating permit before commencing construction.

2. If an owner or operator of an existing **stationary** source that is not subject to the requirements of NAC 445B.289 or 445B.290 has not applied for an obtained an operating permit before the effective date of the program, he shall file an application for an operating permit within 12 months after the effective date of the program. Filing such an application does not relieve the owner or operator of legal responsibility for his failure to obtain **[a permit to construct or]** an operating permit pursuant to NAC 445B.300 or 445B.318, respectively, as these provisions existed before the effective date of the program.

3. **[If an owner or operator of an existing source that is not subject to the requirements of NAC 445B.289 or 445B.290 has applied for an obtained an operating permit before the effective date of the program, he shall file an**

**application for renewal of the operating permit at least 30 days before the date on which the current operating permit expires.**

**4.]** The following provisions of NAC 445B.300 do not apply to Class II operating permits:

- (a) Public notice;
- (b) Notice to the EPA and affected states;
- (c) Veto of the operating permit by the EPA; and
- (d) Petitions to the administrator.

**[5.] 4.** The director shall apply the provisions of 40 C.F.R. §§ 60.7, 60.14 and 60.15, as adopted pursuant to NAC 445B.221, when determining whether a proposed action or actions at a Class II source constitute a modification or reconstruction.

**Sec. 67.** NAC 445B.293 is hereby amended to read as follows:

445B.293 1. Except as otherwise provided in subsection 2, no existing or new stationary source which is a major source is exempt from the requirement to obtain an operating permit.

2. The following **stationary** sources are exempt from the requirement to obtain an operating permit:

- (a) A **stationary** source which would be required to obtain an operating permit solely because it is subject to 40 C.F.R. Part 60, Subpart AAA, Standards of Performance for New Residential Wood Heaters; and
- (b) A **stationary** source which would be required to obtain an operating permit solely because it is subject to 40 C.F.R. Part 61, Subpart M. Asbestos NESHAP, section 61.145.

3. Except as otherwise provided in this subsection, the following existing and new **[single sources] emission units** perform insignificant activities and **[do not require] are not required to obtain** operating permits:

(a) Air-conditioning equipment or fuel-burning equipment, except internal combustion engines, that individually have a rating:

- (1) Less than 4,000,000 Btu's per hour; or
- (2) Equal to or greater than 4,000,000 Btu's per hour, but operating less than 100 hours per calendar year.

(b) Motor vehicles and special mobile equipment. As used in this paragraph, "special mobile equipment" has the meaning ascribed to it in NAC 445B.450.

(c) Residential and commercial housekeeping vacuum systems.

(d) Incinerators with less than 25 lb per hour rated capacity.

(e) Agricultural land use.

(f) Storage containers for petroleum liquid or storage facilities for volatile organic liquid having a capacity of less than 40,000 gallons which are not subject to 40 C.F.R. Part 60, Subparts K, Ka or Kb.

(g) Equipment or contrivances used exclusively for the processing of food for human consumption.

(h) Disturbing topsoil of less than 5 acres.

(i) Maximum allowable throughput of less than 50 lb per hour, unless the **[source] emission unit** directly emits or has the potential to emit a hazardous air pollutant.

(j) Portable internal combustion engines that, individually, have a rating:

- (1) Less than 500 horsepower output; or
- (2) Equal to or greater than 500 horsepower output, but operating less than 100 hours per calendar year.

(k) Stationary internal combustion engines that, individually, have a rating:

- (1) Less than 250 horsepower output; or
- (2) Equal to or greater than 250 horsepower output, but operating less than 100 hours per calendar year.

(l) Emergency generators.

**(m) Other emission units exempted by the director from the requirement of obtaining an operating permit. The director may:**

Petition 95010 (LCB File No. R-032-95) was adopted by Environmental Commission on October 3, 1995.

LCB R032-95 incorporates the temporary regulations previously adopted by the State Environmental Commission in Petition 95001, 95002, 95004, 95005 and 95010. R-032-95 became effective upon filing with the Secretary of State on October 30, 1995 by the Legislative Counsel Bureau (LCB).

- (1) Exempt emission units from the requirement of obtaining an operating permit only if he determines that:*
- (I) The operation of the emission unit will not result in emissions of hazardous air pollutants that exceed 1 pound per hour or 1,000 pounds per year;*
  - (II) The operation of the emission unit will not result in emissions of regulated air pollutants that exceed 4,000 pounds per year;*
  - (III) The operation of the emission unit will not result in emissions of regulated air pollutants that exceed any other emissions limitation pursuant to an applicable requirement; and*
  - (IV) The operation of the emission unit will not result in emissions of regulated air pollutants that adversely impact public health or safety.*
- (2) Consider the impacts of the combined emissions of multiple emission units to determine whether to exempt a specific emission unit.*

The potential emissions from the [sources] ***emission units*** listed in this subsection must be included in the determination of whether a ***stationary*** source is a major source, except for the potential emissions from motor vehicles and special mobile equipment, residential and commercial housekeeping vacuum systems, agricultural land use, and disturbing top soil of less than 5 acres.

4. As used in this section:

- (a) "Emergency generator" means an internal combustion engine that is used to generate electrical power to maintain essential operations during unplanned electrical power outages.
- (b) "Internal combustion engine" means any fuel burning, heat generating engine, except engines in the motor vehicles or the special mobile equipment described in NRS 445.6145, 445.615 and 445.6155 and NAC 445B.450.

**Sec. 68.** NAC 445B.294 is hereby amended to read as follows:

445B.294 1. **[An owner or operator shall file a Class I-A application within 12 months after the effective date of the program, or within 12 months after the owner or operator commences operation of the source, whichever is later.] Except as otherwise provided in subsection 2, an owner or operator subject to the provisions of NAC 445B.289 shall file a Class I-A application in accordance with the schedule established by the director pursuant to section 4 of this regulation.**

2. For affected sources, an owner or operator must file an application for a Class I operating permit within 12 months after the effective date of the program, or on or before January 1, 1996, whichever is earlier.

3. All permits to construct and operating permits issued to existing sources which are in effect before the effective date of the program remain in effect until the director issues or denies the applicant's Class I operating permit as provided in NAC 445B.001 to 445B.395, inclusive.

4. Except as otherwise provided in this subsection, if the owner or operator **[of a Class I source] subject to the provisions of NAC 445B.289** submits a completed ***Class I-A*** application for an operating permit or a renewal of a permit in a timely manner, he shall not be deemed to be in violation of the requirement for an operating permit during the time the director considers the application. The owner or operator shall be deemed to violate the requirement for an operating permit if the director requests additional information in writing following a determination that the application is complete and the owner or operator fails to submit the requested information within a reasonable time as specified in the director's request.

**Sec. 69.** NAC 445B.295 is hereby amended to read as follows:

445B.295 1. An application for an operating permit must include:

- (a) Information to identify the applicant, including the name and address of the company or the name and address of the plant if different from that of the company, the name of the owner of the company and his agent and the name and telephone number of the manager of the plant or another appropriate person to contact;
- (b) A description of the ***stationary*** source's processes and products by Standard Industrial Classification Code, including any processes and products associated with an alternative operating scenario identified by the owner or operator;

(c) A description of the fuels, fuel use and raw materials to be used and the rates of production and operating schedules for each emission unit which is a part of the **stationary** source;

(d) An identification and a description of any equipment for the control of air pollution and any devices or activities for monitoring compliance with emission limitations;

(e) Limitations on the operation of the **stationary** source or any standards for work, practices which affect emissions for all regulated **air** pollutants at the **stationary** source;

(f) An explanation of any proposed exemption from any applicable requirement;

(g) The location of any records that the applicant must keep pursuant to the requirements of the operating permit, if the records are kept at a location other than the emitting facility; and

(h) Other specific information that the director determines is necessary to carry out, enforce and determine the applicability of all legal requirements.

2. In addition to the information required pursuant to subsection 1, an application for a Class I operating permit must include:

(a) Descriptions of all emissions of any pollutants for which the source is major and all emissions of regulated air pollutants from all emission units;

(b) An identification and a description of all points of emissions and all activities which may generate emissions of the **regulated** air pollutants described in paragraph (a) in sufficient detail to establish the basis for the applicability of standards and fees;

(c) The emission [rate] ***rates of all regulated air pollutants that are subject to an emissions limitation pursuant to an applicable requirement. The emission rates must be*** described in tons per year and in such terms as are necessary to establish compliance using the applicable standard reference test method;

(d) Any other information required by any applicable requirement;

(e) The calculations on which the information in subsection 1 and this subsection are based;

(f) A citation of and a description of all applicable requirements;

(g) A reference to any applicable test method used for determining compliance with each applicable requirement; and

(h) A compliance plan that contains, with respect to all applicable requirements, each of the following:

(1) A narrative description of the compliance status of the **stationary** source.

(2) A compliance certification by a responsible official of the **stationary** source, stating that the owner or operator must comply in a timely manner with any new applicable requirement that becomes effective during the term of the operating permit. This certification must include a description of the test methods and the requirements for monitoring, enhanced monitoring, recordkeeping and reporting that the **stationary** source will use to comply with the new applicable requirement, fuel use, the rate of production, raw materials and operating schedules which are used to determine the compliance status of the **stationary** source.

(3) If the **stationary** source is not in compliance with any applicable requirements at the time of the issuance of the operating permit, a narrative description and a schedule for achieving compliance which includes remedial measures to be taken, an enforceable sequence of actions with milestones and certified progress reports that must be submitted every 6 months. This schedule must be at least as stringent as that contained in any consent decree rendered by a federal court, a court of this state or an administrative order which applies to the **stationary** source.

(4) A schedule for the submission of compliance certifications during the term of the operating permit that provides for the submission of certifications at least annually or more frequently if required by an applicable requirement or the director.

3. In addition to the information required pursuant to subsections 1 and 2, a Class I-B application for a Class I operating permit must contain:

(a) For a proposed new major source or a proposed significant modification to an existing **stationary** source which is subject to the provisions of 40 C.F.R. § 52.21 regarding the prevention of significant deterioration of air quality, as adopted pursuant to NAC 445B.221:

(1) All information required by 40 C.F.R. § 52.21; and

- (2) Any other information that the director determines is necessary to process the application.
- (b) For a proposed new major source or a proposed significant modification to an existing **stationary** source which is not subject to the provisions of 40 C.F.R. § 52.21 regarding the prevention of significant deterioration of air quality:
- (1) All information required by NAC 445B.308 to 445B.313, inclusive;
  - (2) Any other information that the director determines is necessary to process the application; and
  - (3) For **stationary** sources subject to the provisions regarding new source review set forth in 42 U.S.C. §§ 7501-7515, inclusive, all information required by 42 U.S.C. § 7503.
- (c) For a proposed new major source or a proposed significant modification to an existing **stationary** source which is subject to the requirements of 42 U.S.C. § 7412 regarding hazardous air pollutants:
- (1) All information required by NAC 445B.308 to 445B.313, inclusive, and 445B.341; and
  - (2) Any other information that the director determines is necessary to process the application.
- [4. In addition to the information required pursuant to subsection 1, an application for a Class II operating permit must contain:**
- (a) A description of all emissions of regulated air pollutants;**
  - (b) An identification and a description of all points of emissions and all activities which may generate emissions of the air pollutants described in paragraph (a); and**
  - (c) The emission rate described in tons per year and in such terms as are necessary to establish enforceable conditions of the operating permit.]**

**Sec. 70.** NAC 445B.296 is hereby amended to read as follows:

445B.296 If an applicant for an operating permit requests the inclusion of:

1. Provisions for alternative operating scenarios, the application must:
  - (a) Define each scenario;
  - (b) Demonstrate that each scenario will comply with each applicable requirement or relevant requirement of NAC 445B.001 to 445B.395, inclusive;
  - (c) Contain proposed conditions of the permit which will ensure compliance with any applicable requirements, including a requirement for contemporaneous log entries each time the **stationary** source changes from one scenario to another; and
  - (d) Contain any additional information that the director determines is necessary to process the application.
2. A federally enforceable emissions cap, the application must:
  - (a) State each applicable requirement that the applicant seeks to avoid;
  - (b) Demonstrate that the applicant will comply with any applicable requirements that the applicant does not avoid with the federally enforceable emissions cap;
  - (c) Contain proposed conditions of the operating permit which will ensure compliance with any applicable requirement; and
  - (d) Contain any additional information that the director determines is necessary to process the application.
3. A provision regarding trading increases and decreases of emissions pursuant to a federally enforceable emissions cap, as set forth in subsection 2, the application must contain:
  - (a) Proposed replicable procedures and conditions of the operating permit that ensure that the trades of emissions are quantifiable and enforceable; and
  - (b) Any additional information that the director determines is necessary to process the application.

**Sec. 71.** NAC 445B.297 is hereby amended to read as follows:

445B.297 1. An applicant for an operating permit must:

- (a) Submit an application to the director on the appropriate form provided by the director. A responsible official of the **stationary** source must certify that, based on information and belief formed after a reasonable inquiry, the statements in the application for the operating permit are true, accurate and complete.

(b) Submit supplementary facts or corrected information upon discovery.

(c) Provide any additional information that the director requests in writing within the time specified in the director's request.

2. In addition to the requirements set forth in subsection 1, an applicant for a Class I operating permit must submit a copy of the application directly to the administrator.

**Sec. 72.** NAC 445B.300 is hereby amended to read as follows:

445B.300 1. A separate *operating* permit **[to construct]** is required for each new or modified **[single] stationary** source. A valid permit must be obtained before the commencement of construction or alteration of any **[single] stationary** source of **[air contaminant.] a regulated air pollutant.**

2. Requests for the issuance of a permit or the replacement of a lost or damaged permit must be submitted to the director on the application form provided by him. **[One-half of the fee for an initial operating permit must accompany the application.] The filing fee for the application for the issuance of a permit or a fee of \$200 for the replacement of a lost or damaged permit must accompany the application.**

3. Except as otherwise provided in NAC 445B.301, within 10 working days after receiving an application for a permit, the director shall determine if any additional information is needed. Within 30 days after receiving adequate information, the director shall make a preliminary determination to issue or deny a permit. The director shall give preliminary notice of his intent to issue or deny the permit for a **[single] stationary** source within 30 days after receiving adequate information for reviewing the application.

4. Except as otherwise provided in NAC 445B.301, the director's review and preliminary intent to issue or deny **[a permit to construct] an operating permit** for:

(a) A new stationary source which has the potential to emit greater than 100 tons of **[an air contaminant] regulated air pollutant** per year; or

(b) A proposed modification which will increase the emissions by more than 1 ton per year at an existing stationary source that has the potential to emit greater than 100 tons of **[an air contaminant] a regulated air pollutant** per year, must be made public and maintained on file with the director during normal business hours at 123 West Nye Lane, Carson City, Nevada, and in the air quality region where the *stationary* source is located at a site specified in a prominent advertisement by the director for 30 days to enable public participation and comment. All comments on the director's review and preliminary intent for issuance or denial must be submitted in writing to the director within 30 days after the public announcement.

5. Except as otherwise provided in NAC 445B.301, within 90 days after receiving adequate information, pursuant to NAC 445B.308 to 445B.313, inclusive, the director shall issue or deny the application for a permit. The director shall make his decision by taking into account written public comments on the director's review and preliminary intent for issuance or denial, information submitted by proponents of the project and the effect of such a facility on the maintenance of the ambient air quality standards contained in NAC 445B.391 and the control strategy contained in the air quality plan.

6. Except as otherwise provided in NAC 445B.301, **[a permit to construct] an operating permit** only expires if construction of a new or modified *stationary* source is not commenced within 1 year after the date of issuance thereof or construction of the facility is delayed for 1 year after initiated.

7. **[A permit to construct] An operating permit** may be revoked by the director upon his determination that there has been a violation of any of the provisions of NAC 445B.001 to 445B.395, inclusive, or any of the provisions of 40 C.F.R. § 52.21 or 40 C.F.R. Part 60 or 61 which have been adopted by reference in NAC 445B.221.

8. The revocation is effective 10 days after the service of a written notice, unless the holder of the permit requests a hearing.

9. A permit that has been revoked may be reissued if the holder of the permit submits a new application, with the appropriate fee, to the director. An environmental review of the **[single] stationary** source must be conducted by the

director as though construction has not yet commenced.

**Sec. 73.** NAC 445B.300 is hereby amended to read as follows:

445B.300 1. Except as otherwise provided in this subsection and NAC 445B.303, within 60 calendar days after the official date of submittal of an application for a Class I operating permit or for the modification of such an operating permit, the director shall determine if any additional information is needed. For a Class I-B application, the official date of submittal of all information required by NAC 445B.295 is the date on which the director determines that the information required pursuant to the provisions regarding the prevention of significant deterioration of air quality or for preconstruction review is complete. Within 30 days after receiving a Class I-B application for a Class I operating permit or for the modification of such operating permit, the director shall determine whether any additional information is needed to process the portion of the application pertaining to preconstruction review. The director shall notify the applicant in writing if any additional information is needed. Unless the director requests additional information or otherwise notifies the applicant that the application is incomplete within 60 days after the official date of submittal, the application shall be deemed complete. Within 180 calendar days after receiving adequate information, the director shall make a preliminary determination to issue or deny the operating permit or the modification of the operating permit. The director shall give preliminary notice of his intent to issue or deny the operating permit or the modification of the operating permit within 180 calendar days after receiving adequate information for reviewing the application.

2. Within 10 working days after the official date of submittal of an application for a Class II operating permit or a modification of a Class II operating permit, the director shall determine if any additional information is needed. Within ~~30~~ **60** days after receiving adequate information to review the application, the director shall **[make a preliminary determination to]** issue or deny such an operating permit or the modification of such an operating permit. **[and give preliminary notice of his determination to the applicant.]**

3. The director's review and preliminary intent to issue or deny a Class I operating permit and the proposed conditions for the operating permit must be made public and maintained on file with the director during normal business hours at 123 West Nye Lane, Carson City, Nevada, and in the air quality region where the source is located for 30 calendar days to enable public participation and comment and a review by any affected states.

4. The director shall:

(a) Cause to be published a prominent advertisement in a newspaper of general circulation in the area in which the **stationary** source is located or in a state publication designed to give general public notice;

(b) Provide written notice to:

(1) Persons on a mailing list developed by the director, including those persons who request in writing to be included on the list; and

(2) Any affected state;

(c) Provide notice by other means if necessary to ensure that adequate notice is given to the public and affected states;

(d) Provide a copy of the director's review of the application, the director's preliminary intent to issue or deny the operating permit and the proposed operating permit to the administrator; and

(e) Establish a 30-day period for public comment.

5. The notice must identify:

(a) The affected facility and the name and address of the applicant;

(b) The name and address of the authority processing the operating permit;

(c) The activity or activities involved in the operating permit and the emissions change involved in any modification of the operating permit;

(d) The name, address and telephone number of a person from whom interested persons may obtain additional information, including copies of the proposed conditions for the operating permit, the application, all relevant supporting materials and all other materials which are available to the authority that is processing the operating permit and which are relevant to the determination of the issuance of the operating permit; and

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LCB R032-95 incorporates the temporary regulations previously adopted by the State Environmental Commission in Petition 95001, 95002, 95004, 95005 and 95010. R-032-95 became effective upon filing with the Secretary of State on October 30, 1995 by the Legislative Counsel Bureau (LCB).

(e) A brief description of the procedures for public comment and the time and place of any hearing that may be held, including a statement of the procedures to request a hearing.

6. All comments on the director's review and preliminary intent for issuance or denial must be submitted in writing to the director within 30 calendar days after the public announcement. The director shall give notice of any public hearing at least 30 days before the date of the hearing. The director shall keep a record of the names of any persons who made comments and of the issues raised during the process for public participation.

7. Except as otherwise provided in subsection 8 and NAC 445B.303, within 12 months after receiving a complete application, the director shall issue or deny the application for an operating permit or for a modification of the operating permit. The director shall make his decision by taking into account written comments from the public, affected states and the administrator and the comments made during public hearings on the director's review and preliminary intent for issuance or denial, information submitted by proponents of the project and the effect of such a facility on the maintenance of the state and national ambient air quality standards contained in NAC 445B.391 and the control strategy contained in the air quality plan. The director shall send a copy of the final permit to the administrator.

8. For **stationary** sources subject to the provisions of 40 C.F.R. § 52.21 regarding the prevention of significant deterioration of air quality, adopted pursuant to NAC 445B.221, the director shall issue or deny an application for an operating permit, or for the modification or renewal of such an operating permit, within 12 months after receiving a complete application.

9. The director shall not issue an operating permit, or a modification of or a renewal of an operating permit, if the administrator objects to its issuance in writing within 45 days of the administrator's receipt of the proposed conditions for the operating permit and the necessary supporting information, including all public comments submitted during the period allowed for public comment, or made during the public hearing.

10. Any person may petition the administrator to request that he object to an operating permit as provided in 40 C.F.R. § 70.8(d).

11. If the administrator objects to the issuance of an operating permit of his own accord or in response to a public petition, the director shall submit revised proposed conditions for the operating permit in response to the objection within 90 days.

12. An operating permit or the modification of an operating permit for a new or modified **stationary** source, other than a **stationary** source subject to the provisions of 40 C.F.R. § 52.21 regarding the prevention of significant deterioration of air quality, expires if construction is not commenced within 1 year after the date of issuance thereof or construction of the facility is delayed for 1 year after initiated.

**Sec.74.** NAC 445B.301 is hereby amended to read as follows:

445B.301 The following provisions apply to **[a permit to construct] an operating permit** for a new facility regulated by 40 C.F.R. § 52.21 or **[a permit to construct] an operating permit** for modifications to an existing major stationary source, as defined by 40 C.F.R. § 52.21:

1. Within 30 working days after receiving an application for **[a permit to construct,] an operating permit**, the director shall determine whether any additional information is needed. Within 180 days after receiving the additional information, the director shall make a preliminary determination to issue or deny a permit. The director shall give notice of his preliminary intent to issue or deny the permit within 180 days after receiving the additional information for reviewing the application.

2. The director's review and statement of preliminary intent to issue or deny **[a permit to construct] an operating permit** must be made public in accordance with the provisions of 40 C.F.R. § 52.21 and maintained on file with the director during normal business hours at 123 West Nye Lane, Carson City, Nevada. The director shall, in a newspaper of general circulation in the general area where the **stationary** source is located, cause to be published once per week for 3 weeks a notice which contains a summary of his preliminary intent to issue or deny the permit. The notice must also include the address of the place where interested persons may review the complete written version of the director's review and

statement of preliminary intent. The director shall accept all comments from the public regarding the review and preliminary intent for a 30-day period beginning on the date of the final publication of the notice. All comments on the director's review and preliminary intent for issuance or denial which are not made at a public hearing on the subject must be submitted in writing to the director during this period.

3. Within 180 days after the close of the 30-day period for public comment, the director shall issue or deny the application for **[a permit to construct.] an operating permit**. The director shall make his decision by taking into account:

- (a) The written comments so submitted;
- (b) The comments made by the members of the public during public hearings on the director's review and preliminary intent for issuance or denial;
- (c) Any comments submitted on behalf of the United States Environmental Protection Agency;
- (d) The information submitted by proponents of the project; and
- (e) The effect of such a facility on the maintenance of the ambient air quality standards contained in NAC 445B.391.

4. Except as otherwise provided in this subsection, a permit issued pursuant to subsection 3 becomes effective 30 days after the issuance of the director's final determination. Any appeal of the director's decision pursuant to subsection 3 must be filed with the director within 30 days after the issuance of the director's final determination. If such an appeal is filed, the permit does not become effective unless and until the director thereafter declares its effectiveness.

5. **[A permit to construct] An operating permit** only expires if:

- (a) Construction of a new facility or modifications to an existing major stationary source are not commenced within 18 months after the date of issuance thereof; or
- (b) In accordance with the provisions of 40 C.F.R. § 52.21, construction of a new facility or modifications to a major stationary source are delayed for 18 months after the construction or modifications are initiated.

**Sec. 75.** NAC 445B.303 is hereby amended to read as follows:

445B.303 1. During the first 3 years of the program, the times set forth in subsections 1 and 7 of NAC 445B.300 for the issuance of an operating permit do not apply to Class I-A applications.

2. The director shall:

- (a) Issue Class I operating permits for one-third of the applications received from existing **stationary** sources each year for 3 years.
- (b) Issue Class I operating permits for all affected sources no later than December 31, 1997.
- (c) Process Class I-B applications and applications for Class II operating permits in accordance with the times set forth in NAC 445B.300.

**Sec. 76.** NAC 445B.305 is hereby amended to read as follows:

445B.305 The director may impose standards for emissions on a proposed **stationary** source that are more stringent than those found in NAC 445B.001 to 445B.395, inclusive, as a condition of approving an operating permit for the proposed **stationary** source.

**Sec. 77.** NAC 445B.308 is hereby amended to read as follows:

445B.308 1. Before an operating permit or a modification of an operating permit may be issued for a new or modified **stationary** source, in accordance with NAC 445B.308 to 445B.313, inclusive, the applicant must submit to the director an environmental evaluation and any other information the director deems necessary to make an independent air quality impact assessment. The environmental evaluation must have approval for any street or highway changes or improvements from the county, regional or state highway agency having jurisdiction over the streets and highways affected by the **stationary** source before submittal to the director.

2. The director shall not issue an operating permit or a modification of an operating permit for any **stationary** source if

the environmental evaluation submitted by the applicant shows, or if the director determines, in accordance with the provisions of this section, that the **stationary** source:

- (a) Will prevent the attainment and maintenance of the state or national ambient air quality standards;
- (b) Will cause a violation of the applicable control strategy contained in the approved air quality plan;
- (c) Will cause a violation of any applicable requirement; or
- (d) Will not comply with subsection 3.

3. To be issued an operating permit or a modification of an operating permit, the owner or operator of a major stationary source or major modification, as those terms are defined in 40 C.F.R. § 51.165, who proposes to construct in an area designated nonattainment for the **regulated air** pollutant or pollutants for which the **stationary** source or modification is major must:

- (a) Comply with the provisions of 40 C.F.C. § 51.165, as incorporated by reference in NAC 445B.221.
- (b) Adopt as an emission limitation for the **stationary** source the lowest achievable emission rate for each nonattainment **regulated air** pollutant from the **stationary** source.
- (c) Demonstrate that all other **stationary** sources within this state which are owned, operated or controlled by the applicant are in compliance or on a schedule of compliance with NAC 445B.001 to 445B.395, inclusive, and all other applicable requirements and conditions of the permit.
- (d) Conduct an analysis of any anticipated impact on visibility in any federal Class I area which may be caused by emissions from the **stationary** source.

(e) Conduct an analysis of alternative sites, sizes, processes of production and techniques for environmental control for the proposed **stationary** source. Except as otherwise provided in this paragraph, the analysis must demonstrate that the benefits of the proposed **stationary** source significantly outweigh the detrimental environmental and social effects that will result from its location, construction or modification. If the major stationary source or major modification proposes to locate in an area designated as marginal nonattainment for ozone, the analysis must demonstrate an offset ratio of 1.2 to 1 for volatile organic compounds and nitrogen oxides. For the purposes of this paragraph, a **stationary** source which is major for volatile organic compounds or nitrogen oxides shall be deemed major for ozone if it proposes to locate in an area designated as nonattainment for ozone.

(f) Comply with one of the following:

(1) Sufficient offsets in emissions must be obtained by the time the proposed **stationary** source begins operation to ensure that the total allowable emissions of each nonattainment **regulated air** pollutant from the existing **stationary** sources in the area, those **stationary** sources in the area will be sufficiently less than the total emissions from the existing **stationary** sources and those **stationary** sources in the area which have received their respective permits before the proposed **stationary** source applies for its operating permit or a modification of an operating permit, in order to achieve reasonable further progress; or

(2) If the major stationary source or major modification is located in a zone identified by the administrator as one to be targeted for economic development, demonstrate that the emission from the **stationary** source will not cause or contribute to emission levels which exceed the allowance permitted for a **regulated air** pollutant for the nonattainment area.

For the purposes of this paragraph, offsets must comply with the provisions of Appendix S of 40 C.F.R. Part 51, as incorporated by reference in NAC 445B.221, and be coordinated with the appropriate local agency for the control of air pollution.

4. To be issued an operating permit or a modification of an operating permit, the owner or operator of a major stationary source or major modification, as those terms are defined in 40 C.F.R. § 52.21, who proposes to construct in any area designated as attainment or unclassifiable under 42 U.S.C. § 7407(d), must comply with the provision of 40 C.F.R. § 52.21, as incorporated by reference in NAC 445B.221.

5. The director may impose any reasonable conditions on his approval, including conditions requiring the owner or operator of the **stationary** source to:

- (a) Conduct monitoring of the quality of the ambient air at the facility site for a reasonable period before the

commencement of construction or modification and for any specified period after operation has begun at the *stationary* source; and

(b) Meets standards for emissions that are more stringent than those found in NAC 445B.001 to 445B.395, inclusive.

6. Where a proposed *stationary* source located on contiguous property is constructed or modified in phases which individually are not subject to review as provided in NAC 445B.308 to 445B.313, inclusive, all phases occurring since November 7, 1975, must be added together for determining the applicability of those sections.

7. Approval and issuance of an operating permit or a modification of an operating permit for any *stationary* source does not affect the responsibilities of the owner or owners to comply with any other portion of the control strategy.

8. An owner or operator of a Class II source not subject to federal requirements may request an exemption from the requirement to submit an environmental evaluation. Within 30 days after receipt of a written request for an exemption, the director shall grant or deny the request and notify the owner or operator in writing of his determination.

9. As used in this section:

(a) "Lowest achievable emission rate" has the meaning ascribed to it in 40 C.F.R. § 51.165, as incorporated by reference in NAC 445B.221.

(b) "Offset ratio" means the percentage by which a reduction in an emission must exceed the corresponding increase in that emission.

(c) "Reasonable further progress" means the annual incremental reductions in emissions of the relevant *regulated* air pollutant that are required by 42 U.S.C. §§ 7501 to 7515, inclusive, or are required by the administrator to ensure attainment of the applicable standard for national ambient air quality by the applicable date.

**Sec. 78.** NAC 445B.310 is hereby amended to read as follows:

445B.310 An applicant for **[a permit to construct] a operating permit, a modification to an operating permit** or a request for a change of location for:

1. A new or modified stationary source, located at the same facility, which emits, or has the potential to emit greater than 25 short tons of **[an air contaminant] a regulated air pollutant** per year;

2. A **[portable] temporary** source, relocating at a facility, which emits or has the potential to emit greater than 25 short tons of **[an air contaminant] a regulated air pollutant** per year; or

3. Upon written notice from the director, any other source or combination of sources, shall submit with the application an environmental evaluation.

**Sec. 79.** NAC 445B.311 is hereby amended to read as follows:

445B.311 1. An environmental evaluation which is required for a new or modified *stationary* source pursuant to NAC 445B.308 to 445B.313, inclusive, or as required by the director must contain a careful and detailed assessment of the environmental aspects of **[a] the proposed stationary** source and must also contain:

(a) The name and address of the applicant;

(b) The name, address and location of the *stationary* source;

(c) A description of the proposed *stationary* source, including the normal hours of operation of the facility and the general types of activities to be performed;

(d) A map showing the location of the *stationary* source and the topography of the area, including existing principal streets, roads and highways within 3 miles of the *stationary* source;

(e) A site plan showing the location and height of buildings on the site; and

(f) Any additional information or documentation which the director deems necessary to determine the effect of the *stationary* source on the quality of the ambient air, including measured data on the quality of the ambient air at the proposed site before construction or modification.

2. Where approval is sought for *stationary* sources to be constructed in phases, the information required by subsection

1 must be submitted for each phase of the construction project.

3. An environmental evaluation must also contain adequate environmental safeguards to be put into operation by the applicant to provide for the maintenance of acceptable air quality and must consider:

(a) Concentrations in the ambient air before, during and after construction, empirically calculated with recognized methods as approved by the director. Existing concentrations in the ambient air may be measured with approved methods at approved site locations for not less than 1 year. Estimates must be empirically determined for concentrations in the ambient air immediately adjacent to the facility and at the predicted point of maximum concentration within the surrounding region.

(b) Alternate proposals which could be put into effect as conditions of approval.

(c) In the narrative portion of the evaluation, other probable environmental effects before, during and after construction.

4. Diffusion models used to determine the location and estimated value of highest concentration of **[air contaminants] regulated air pollutants** must contain:

(a) Assumptions and premises;

(b) Evaluation at the most adverse meteorological conditions recorded in the last 10 years;

(c) Evaluation at the most adverse meteorological conditions recorded in the last year;

(d) A description of the geographic area considered in the evaluation;

(e) Dispersion equations;

(f) The predicted buildup of **[contaminants;] regulated air pollutants;**

(g) Location, type, and amount of emissions; and

(h) Meteorological information.

**Sec. 80.** NAC 445B.313 is hereby amended to read as follows:

445B.313 For the purposes of determining the effects on the quality of ambient air pursuant to NAC 445B.308 to 445B.313, inclusive, the heat input is the aggregate heat content of all combusted fuels whose products of combustion pass through a stack or stacks, or the equipment manufacturer's or designer's guaranteed maximum input, whichever is greater. The total heat input of all fuel-burning units in a plant or on the premises must be used to determine the maximum amount of **[an air contaminant] a regulated air pollutant** which may be emitted.

**Sec. 81.** NAC 445B.315 is hereby amended to read as follows:

445B.315 1. The director shall cite the legal authority of each condition contained in an operating permit.

2. An operating permit must contain the following conditions:

(a) The term of the operating permit is 5 years.

(b) The holder of the operating permit shall retain records of all required monitoring data and supporting information for 5 years from the date of the sample collection, measurement, report or analysis. Supporting information includes all records regarding calibration and maintenance of the monitoring equipment and all original strip-chart recordings for continuous monitoring instrumentation.

(c) Each of the conditions and requirements of the operating permit is severable and, if any are held invalid, the remaining conditions and requirements continue in effect.

(d) The holder of the operating permit shall comply with all conditions of the operating permit. Any noncompliance constitutes a violation and is grounds for:

(1) An action for noncompliance;

(2) Modifying, revoking, reopening and revising or terminating the operating permit by the director; or

(3) Denial of an application for a renewal of the operating permit by the director.

(e) The need to halt or reduce activity to maintain compliance with the conditions of the operating permit is not a defense to noncompliance with any condition of the operating permit.

(f) The director may modify, revoke and reissue, reopen and revise or terminate the operating permit for cause.

Petition 95010 (LCB File No. R-032-95) was adopted by Environmental Commission on October 3, 1995.

LCB R032-95 incorporates the temporary regulations previously adopted by the State Environmental Commission in Petition 95001, 95002, 95004, 95005 and 95010. R-032-95 became effective upon filing with the Secretary of State on October 30, 1995 by the Legislative Counsel Bureau (LCB).

- (g) The operating permit does not convey any property rights or any exclusive privilege.
- (h) The holder of the operating permit shall provide the director, within a reasonable time, with any information that the director requests in writing to determine whether cause exists for modifying, revoking and reissuing, reopening and revising or terminating the operating permit, or to determine compliance with the conditions of the operating permit.
- (i) The holder of the operating permit shall pay fees to the director in accordance with the provisions set forth in NAC 445B.327 and 445B.331.
- (j) The holder of the operating permit shall allow the director or any authorized representative, upon presentation of credentials; to:
  - (1) Enter upon the premises of the holder of the operating permit where:
    - (I) The **stationary** source is located;
    - (II) Activity related to emissions is conducted; or
    - (III) Records are kept pursuant to the conditions of the operating permit;
  - (2) Have access to and copy, during normal business hours, any records that are kept pursuant to the conditions of the operating permit;
  - (3) Inspect, at reasonable times, any facilities, practices, operations or equipment, including any equipment for monitoring or controlling air pollution, that are regulated or required pursuant to the operating permit; and
  - (4) Sample or monitor, at reasonable times, substances or parameters to determine compliance with the conditions of the operating permit or applicable requirements.
- (k) A responsible official of the **stationary** source shall certify that, based on information and belief formed after a reasonable inquiry, the statements made in any document required to be submitted by any condition of the operating permit are true, accurate and complete.

**Sec. 82.** NAC 445B.316 is hereby amended to read as follows:

445B.316 1. In addition to the conditions set forth in NAC 445B.315, a Class I operating permit must:

- (a) Include emission limitations and standards, including those operational requirements and limitations that ensure compliance with all applicable requirements at the time of the issuance of the operating permit.
- (b) Specify the origin of and authority for each term or condition of the operating permit and explain any difference in form between a term or condition of the operating permit and the applicable requirement upon which the term or condition is based.
- (c) Contain requirements for monitoring that are sufficient to ensure compliance with the conditions of the operating permit, including:
  - (1) All procedures or test methods for monitoring and analyzing emissions required pursuant to the applicable requirements or adopted pursuant to 42 U.S.C. §§ 7414(a)(3) or 7661c(b).
  - (2) If the applicable requirement does not require periodic testing or monitoring, periodic monitoring that is sufficient to yield reliable data from the relevant period which is representative of the **stationary** source's compliance with the conditions of the operating permit. Such monitoring requirements must use terms, test methods, units, averaging periods and other statistical conventions consistent with the applicable requirement.
  - (3) As necessary, requirements concerning the use, maintenance and the installation of equipment or methods for monitoring.
- (d) Incorporate all applicable requirements for recordkeeping and require, where applicable:
  - (1) Records of monitoring information required by the conditions of the permit, including the date, the location and the time of the sampling or the measurements and the operating conditions at the time of the sampling or measurements; and
  - (2) The date on which the analyses were performed, the company that performed them, the analytical techniques that the company used and the results of such analyses.
- (e) Incorporate all applicable reporting requirements and require:
  - (1) Submittal of reports of any required monitoring every 6 months, within 8 weeks after the end of the reporting period;

- (2) Prompt reporting of all deviations from the requirements of the operating permit; and
  - (3) The probable cause of all deviations and any action taken to correct the deviations to be reported.
  - (f) Contain the terms and conditions for any reasonably anticipated alternative operating scenarios identified by the owner or operator of the **stationary** source in his application and approved by the director. Such terms and conditions must ensure that all applicable requirements are met, and must require the owner or operator to keep a contemporaneous log of changes from one alternative operating scenario to another.
  - (g) Contain the terms and conditions of any federally enforceable emissions cap which has been approved by the director and the terms and conditions of any trading emissions under the cap which has been approved by the director.
  - (h) Contain a schedule of compliance for **stationary** sources that are not in compliance with any applicable requirement at the time the operating permit is issued, including:
    - (1) Semiannual progress reports with dates for achieving milestones;
    - (2) Prior notice of an explanations for missed deadlines; and
    - (3) Any preventive or corrective measures taken.
  - (i) Contain requirements for compliance certification with any applicable requirement that reflect the terms and conditions of the operating permit. The permit must contain the approved deadlines for the submittal of the compliance certification. The compliance certification must be submitted annually, or more frequently if required by an applicable requirement, to the director. A copy of the compliance certification must be submitted to the administrator. A compliance certification must include:
    - (1) An identification of each term or condition of the operating permit that is the basis of the certification;
    - (2) The status of the **stationary** source's compliance with any applicable requirement;
    - (3) A statement of whether compliance was continuous or intermittent;
    - (4) The method used for determining compliance; and
    - (5) Any other facts the director determines to be necessary to determine compliance.
  - (j) Include a statement that compliance with the conditions of the operating permit shall be deemed to be compliance with any applicable requirements as of the date of the issuance of the operating permit, if:
    - (1) Such applicable requirements are included and are specifically identified in the operating permit; or
    - (2) The director, in acting on the application for or the revision of an operating permit, determines in writing that other requirements specifically identified are not applicable to the **stationary** source and the operating permit includes the determination or a concise summary of the determination.
2. All provisions of a Class I operating permit or the modification of such a permit regarding the prevention of significant deterioration of air quality must be contained in a clearly identified and separate portion of the operating permit. This portion of the operating permit must state that:
- (a) The operating permit will expire if construction is:
    - (1) Not commenced within 18 months after the issuance of the operating permit; or
    - (2) Delayed for 18 months after it is commenced;
  - (b) The operating permit becomes effective 30 days after the issuance of the director's final determination; and
  - (c) The provisions of the operating permit regarding the prevention of significant deterioration of air quality are subject to the requirements of 40 C.F.R. Part 124, Subparts A and C.

**Sec. 83.** NAC 445B.317 is hereby amended to read as follows:

445B.317 In addition to the conditions set forth in NAC 445B.315, Class II operating permits must contain, as applicable:

- 1. Emission limitations and standards, including those operational requirements and limitations that ensure compliance with the conditions of the operating permit.
- 2. All requirements for monitoring, testing and reporting that apply to the **stationary** source.
- 3. A requirement that the owner or operator of the **stationary** source promptly report any deviations from any

requirements of the operating permit.

4. The terms and conditions for any reasonably anticipated alternative operating scenarios identified by the owner or operator of the **stationary** source in his application and approved by the director. Such terms and conditions must require the owner or operator to keep a contemporaneous log of changes from one alternative operating scenario to another.

5. A schedule of compliance for **stationary** sources that are not in compliance with any applicable requirement or NAC 445B.001 to 445B.395, inclusive, at the time the operating permit is issued, including:

- (a) Semiannual progress reports and a schedule of dates for achieving milestones;
- (b) Prior notice of an explanations for missed deadlines; and
- (c) Any preventive or corrective measures taken.

6. Requirements for compliance certification which reflect the terms and conditions of the operating permit. A compliance certification must include:

- (a) An identification of each term or condition of the operating permit that is the basis of the certification;
- (b) The status of the **stationary** source's compliance with any applicable requirement;
- (c) A statement of whether compliance was continuous or intermittent;
- (d) The method used for determining compliance; and
- (e) Any other facts the director determines to be necessary to determine compliance.

**Sec. 84.** NAC 445B.318 is hereby amended to read as follows:

445B.318 1. A separate operating permit is required for each new or existing **[single source. Possession of a valid permit to construct is a prerequisite to obtaining the initial operating permit for a new] stationary** source.

2. Application for the issuance of an **[initial]** operating permit or a replacement for a lost or damaged operating permit must be submitted in writing to the director on the exact form provided by him.

3. An operating permit must be granted if the director finds from a stack emission test or other appropriate test and other relevant information that use of the **stationary** source will not result in any violation of the air quality regulations or the provisions of 40 C.F.R. § 52.21 or 40 C.F.R. Parts 60 and 61, Prevention of Significant Deterioration, New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants adopted by reference in NAC 445B.221.

4. A denial of an application for an operating permit must be accompanied by a statement of the reasons therefor, and if the director has relied in his decision upon information not contained in the application, the statement of reasons must identify and state the substance of such information.

5. Operating permits must be posted conspicuously at or near the **[single] stationary** source.

**Sec. 85.** NAC 445B.319 is hereby amended to read as follows:

445B.319 1. The holder of an operating permit may request or the director may initiate an administrative amendment of an operating permit to:

- (a) Correct typographical errors;
- (b) Identify a change in the name, address or telephone number of any person identified in the operating permit, or provide a similar minor administrative change at the **stationary** source;
- (c) Require more frequent monitoring or reporting by the holder of the operating permit;
- (d) Add the serial numbers of specific pieces of equipment which were not available at the time of the issuance of or modification of the operating permit;

or

(e) Allow for a change in ownership or operational control of a **stationary** source if the director determines that no other change in the operating permit is necessary. A person who requests an administrative amendment pursuant to this paragraph must submit to the director a written agreement specifying a date for the transfer of responsibility for the operating permit

and an agreement between the current and the new holder of the operating permit regarding insurance coverage and liability.

2. A holder of an operating permit must request an administrative amendment on an application provided by the director. The application must be accompanied by a fee of \$25.

3. The director shall:

- (a) Issue or deny an application for an administrative amendment within 30 days after receipt of the application.
- (b) Send a copy of the administrative amendment to the administrator.

**Sec. 86.** NAC 445B.320 is hereby amended to read as follows:

445B.320 1. The owner or operator of a **stationary** source operating in compliance with a Class I operating permit may make changes which contravene an express term of the operating permit without a revision of the operating permit if the changes do not:

- (a) Constitute modifications pursuant to any provision of 42 U.S.C. §§ 7401 to 7515, inclusive;
- (b) Violate any applicable requirement; and
- (c) Exceed the allowable emissions set forth in the operating permit.

2. Any conditions of a Class I operating permit that are requirements for monitoring, methods of testing, recordkeeping, reporting or compliance certification may not be changed pursuant to this section.

3. For each change made pursuant to this section, the holder of the operating permit shall provide written notification to the director and the administrator at least 7 days before making the change. This notification must include:

- (a) A brief description of the change;
- (b) The date on which the change will occur;
- (c) Any change in emissions; and
- (d) Any condition of the operating permit which will not longer apply because of the change.

The holder of the operating permit, the director and the administrator shall attach a copy of the written notification to his copy of the permit.

**Sec. 87.** NAC 445B.321 is hereby amended to read as follows:

445B.321 1. A minor modification may be made to a Class I operating permit if it:

- (a) Does not violate any applicable requirement;
- (b) Does not involve significant changes to the existing requirements for monitoring, reporting or recordkeeping;
- (c) Does not require or change:

- (1) A determination of an emission limitation or other standard on a case-by-case basis;
- (2) A determination of the ambient impact for any temporary [, **portable**] source; or
- (3) A visibility or increment analysis;

(d) Does not establish or change a condition of the operating permit for which there is no corresponding underlying applicable requirement and which was requested in order to avoid an applicable requirement, including:

- (1) A federally enforceable emissions cap; or
- (2) An alternative emission limitation pursuant to 42 U.S.C. § 7412(i)(5); and
- (e) Is not a modification pursuant to any provision of 42 U.S.C. §§ 7401 to 7515, inclusive.

2. The director may process as a minor modification an increase in the emissions of a criteria pollutant, other than lead, of 1 ton per year or less from a **stationary** source located in an area designated as an attainment or as an unclassifiable area for the criteria pollutant if the increase in emissions does not violate any of the requirements set forth in subsection 1.

3. An owner or operator must request a minor modification on an application form provided by the director. The application must be accompanied by a fee of \$100. The application must include:

- (a) A description of the modification;
- (b) A description of the emissions resulting from the modification;

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- (c) An identification of any new applicable requirements that will apply because of the modification;
  - (d) Suggested conditions of the operating permit;
  - (e) Certification by a responsible official of the **stationary** source that the proposed modification complies with the criteria for a minor modification set forth in subsection 1; and
  - (f) Any relevant information concerning the proposed change which is required by NAC 445B.295.
4. The director shall:
- (a) Provide notice to the administrator and any affected state within 5 working days after his receipt of a complete application for a minor modification.
  - (b) Notify the administrator of any recommendations from an affected state which the director does not accept.
5. If the administrator does not object to the minor modification within 45 days after his receipt of the notification, the director may issue the minor modification.
6. If the administrator objects to the minor modification, the director shall:
- (a) Deny the application for the minor modification.
  - (b) Determine whether the minor modification should be reviewed under the procedures for a significant modification; or
  - (c) Revise the proposed modification of the operating permit and forward it to the administrator for review.
7. The director shall take action pursuant to subsections 5 or 6 within 90 days after receipt of an application for a minor modification or within 15 days after the administrator's 45-day review period ends, whichever is later.

**Sec. 88.** NAC 445B.322 is hereby amended to read as follows:

- 445B.322 1. The holder of an operating permit may request a significant modification of a Class I operating permit if it does not qualify as a change that may be made pursuant to NAC 445B.320, or as an administrative amendment or a minor modification. A significant modification includes, but is not limited to, a modification:
- (a) Of an existing condition of the operating permit relating to monitoring or making the requirements for reporting or recordkeeping less stringent;
  - (b) Which requires or changes:
    - (1) A determination of an emission limitation on a case-by-case basis;
    - (2) A determination of ambient impact for any temporary [, **portable**] source; or
    - (3) A visibility or increment analysis;
  - (c) Which would establish or change a condition of the operating permit and which is requested or assumed by the owner or operator of the **stationary** source in order to avoid any applicable requirement;
  - (d) Subject to 40 C.F.R. § 52.21 or 40 C.F.R. Part 60, as adopted pursuant to NAC 445B.221; or
  - (e) Subject to 42 U.S.C. § 7412.
2. An application for a significant modification must comply with the requirements for an application for a Class I operating permit set forth in NAC 445B.295 and 445B.297, including public participation and comment and a review by any affected states and the administrator pursuant to NAC 445B.300.
3. An application for a significant modification must be accompanied by the fee set forth in NAC 445B.327.

**Sec. 89.** NAC 445B.323 is hereby amended to read as follows:

- 445B.323 1. Operating permits must be renewed 5 years after the date of issuance.
2. Requests for the renewal of an operating permit must be submitted, in writing, to the director with the appropriate fee at least 30 calendar days before the expiration date of the current permit.
3. If a request is submitted at least 30 calendar days before the expiration of the current permit, the **stationary** source may continue to operate until the permit is renewed. If a request is submitted less than 30 calendar days before the expiration of the current permit, the **[single] stationary** source must cease operation when the permit expires, and may not recommence the operation until the permit is renewed or until the **stationary** source receives written authorization from

the director to continue operation. If authorization to continue operation is given, the **stationary** source must comply with all applicable standards and restrictions contained in NAC 445B.001 to 445B.395, inclusive, and all restrictions contained on the expired operating permit.

4. The fee for each renewed operating permit is as specified in the fee schedule contained in NAC 445B.331.

**Sec. 90.** NAC 445B.323 is hereby amended to read as follows:

445B.323 1. All operating permits must be renewed 5 years after the date of issuance.

2. A completed application for renewal of an operating permit must be submitted, in writing, to the director on the form provided by him with the appropriate fee at least 180 calendar days, but no earlier than 18 months, before the expiration date of the current permit for Class I sources, or at least 30 calendar days before the expiration date of the current permit for Class II sources.

3. Applications for renewal must comply with all requirements for the issuance of an initial operating permit.

4. If an application for renewal is submitted at least 180 calendar days before the expiration of the current permit for Class I sources, or at least 30 days before the expiration of the current permit for Class II sources, the **stationary** source may continue to operate until the permit is renewed or the application for renewal is denied. The continued operation of the **stationary** source must comply with the conditions of the expired permit. If a request is not submitted in a timely manner, the **stationary** source may be required to cease operation when the permit expires, and may not recommence the operation until the permit is renewed.

5. The fee for the renewal of an operating permit is as specified in NAC 445B.327.

**Sec. 91.** NAC 445B.327 is hereby amended to read as follows:

445B.327 1. The fee for an operating permit, a significant modification of a permit or a renewal of a permit for all sources is \$250 per application. An applicant must pay the entire fee when he submits an application to the director.

2. **[Fees]** *The fee* based on emissions for a new or an existing **stationary** source or for any significant modification to an existing **stationary** source **[are as follows:**

**(a) From July 1, 1994, to and including June 30, 1995, the fee]** is \$3.36 per ton times the total tons of each regulated pollutant, except carbon monoxide, emitted during the preceding calendar year.

**[(b) From July 1, 1995, to and including June 30, 1996, the fee is \$7.25 per ton times the total tons of each regulated pollutant, except carbon monoxide, emitted during the preceding calendar year.**

**(c) On and after July 1, 1996, the fee is \$9 per ton times the total tons of each regulated pollutant, except carbon monoxide, emitted during the preceding calendar year.]**

3. To determine the **[fees]** *fee* set forth in subsection 2:

(a) Emissions must be calculated using:

(1) The emission unit's actual operating hours, rates of production and in-place control equipment;

(2) The types of materials processed, stored or combusted; and

(3) Data from:

(I) A test for emissions compliance;

(II) A continuous emission monitor;

(III) The most recently published issue of "Compilation of Air Pollutant Emission Factors," EPA Publication No. AP-42;  
or

(IV) Other emission factors or methods which the director has validated; or

(b) If paragraph (a) does not apply to a **stationary** source that was in operation during the preceding calendar year, emissions must be calculated using the permitted allowable emissions for that **stationary** source.

4. Annual fees for services and maintenance are as follows:

**(a) [From July 1, 1994, to and including June 30, 1995:**

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(1)] For facilities which have more than 1 ton of emissions of *regulated air pollutants* per year:

<u>Type of [Source] <i>Emission Unit</i></u>	<u>Fee per permitted [source] <i>emission unit</i></u>
<b>[Sources] <i>Emission units</i> within major group 49 - power</b>	
Power generation units .....	\$2,850
Power generation related [sources] <i>emission units</i> .....	175
Other [sources] <i>emission units</i> within major group 49 .....	175
<b>[Sources] <i>Emission units</i> within major group 10 - mining</b> .....	175
<b>[Sources] <i>Emission units</i> within major group 14 and 16 - aggregate/concrete</b> .....	75
Other [sources] <i>emission units</i> .....	125

- [(2)]
- (b) For facilities which have less than 1 ton of emission per year, each facility shall pay \$350.
- [(b) From July 1, 1995, to and including June 30, 1996:
- (1) For facilities which have more than 1 ton of emissions per year:

<u>Type of Source</u>	<u>Fee Per permitted source</u>
<b>Sources within major group 49 - power</b>	
Power generation units .....	\$5.920
Power generation related sources .....	355
Other sources within major group 49 .....	355
<b>Sources within major group 10 - mining</b> .....	355
<b>Sources within major group 14 and 16 - aggregate/concrete</b> ..	150
<b>Other sources</b> .....	275

- (2) For facilities which have less than 1 ton of emissions per year, each facility shall pay \$700.
- (c) On and after July 1, 1996:
- (1) For facilities which have more than 1 ton of emissions per year:

<u>Type of Source</u>	<u>Fee Per permitted source</u>
<b>Sources within major group 49 - power</b>	
Power generation units .....	\$6,850
Power generation related sources .....	425
Other sources within major group 49 .....	425
<b>Sources within major group 10 - mining</b> .....	425
<b>Sources within major group 14 and 16 - aggregate/concrete</b> ..	175
<b>Other sources</b> .....	325

- (2) For facilities which have less than 1 ton of emissions per year, each facility shall pay \$750.]
5. The *annual* fee for a permit for a surface area disturbance is \$450 for 5 acres or more.
6. The fee for the modification of a facility requiring a new review for a stationary source, including the location of [portable] *temporary* equipment on a site with permitted stationary equipment, is the same fee as is required for an operating permit as set forth in subsection 1.
7. The department shall calculate and collect all fees based on emissions and fees for services and maintenance beginning

July 1, 1994, and on each July 1st thereafter.

8. Annual fees for operating permits are due and payable to the "Nevada State Treasurer, Environmental Protection" within 45 days after the date of the invoice.

9. As used in subsection 4, "major group" means the major groups described in the "Standard Industrial Classification Manual," as adopted by reference in NAC 445B.221.

**Sec. 92.** NAC 445B.331 is hereby amended to read as follows:

445B.331 1. The fees for the replacement or renewal of an operating permit or the reissuance of an expired operating permit are as follows:

(a) For the replacement of each lost or damaged operating permit, \$200.

(b) For reissuing an expired operating permit, 1.25 times the fee specified in NAC 445B.327.

2. The fee for a request for a change of the location of **[a source] an emission unit** is \$90. Such a request must be made in writing to the director and submitted with the fee for each operating permit at least 10 days before the commencement of the operation of the **[source] emission unit** at the new location. An owner or operator must not operate the **[source] emission unit** at the new location until the director approves the location.

**Sec. 93.** NAC 445B.333 is hereby amended to read as follows:

445B.333 1. An operating permit may be revoked if the control equipment is not operating.

2. An operating permit may be revoked by the director upon determining that there has been a violation of NAC 445B.001 to 445B.395, inclusive, or the provisions of 40 C.F.R. § 52.21, or 40 C.F.R. Part 60 or 61, Prevention of Significant Deterioration, New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants adopted by reference in NAC 445B.221.

3. The revocation is effective 10 days after the service of a written notice, unless a hearing is requested.

4. To reissue a revoked operating permit, the holder of the revoked permit must file a new application with the director, accompanied by the fee for an initial operating permit as specified in NAC 445B.327. An environmental review of the **[single] stationary** source must be conducted as though construction had not yet commenced.

**Sec. 94.** NAC 445B.335 is hereby amended to read as follows:

445B.335 1. The director may issue a general permit covering numerous similar **stationary** sources.

2. A general permit must set forth the criteria by which **stationary** sources may qualify for the general permit.

3. A general permit which covers **stationary** sources that would otherwise be required to be covered by a Class I operating permit must:

(a) Ensure compliance with all applicable requirements; and

(b) Not be granted until the requirements for public participation and comment and a review by any affected states and the administrator pursuant to NAC 445B.300 have been completed.

4. If the administrator does not object within 45 days after receiving a proposed general permit which covers **stationary** sources that would otherwise be required to apply for a Class I operating permit, the general permit becomes effective at the end of the 45-day period. If the administrator objects to the general permit, the general permit becomes effective when the objection is resolved.

5. After the effective date of a general permit, the owner or operator of any **stationary** source that meets the criteria set forth in the general permit may request authority to operate under the general permit. The request must be in writing and must include all the information required by the general permit.

6. The director shall grant or deny authority to operate under a general permit within 30 days after his receipt of a request

for such authority. The director's decision to grant or deny an application for authority to operate under the terms of a general permit is not subject to the requirements of NAC 445B.300.

7. A person may challenge the provisions of a general permit only at the time the general permit is issued. The director's grant or denial of authority to operate under a general permit to a **stationary** source or **stationary** sources does not provide an opportunity for an administrative review or a judicial review of the general permit.

8. The director shall not grant authority to operate under a general permit to an affected source.

9. The term of a general permit is 5 years.

10. The authority to operate under a general permit expires after 5 years. An owner or operator of a **stationary** source operating under the authority of a general permit shall apply to renew his authority to operate under the general permit at least 30 days before his authorization expires.

11. A **stationary** source which obtains authorization to operate under a general permit but is later determined not to qualify under the conditions of the general permit may be subject to an action enforcing the prohibition against operating without a permit.

**Sec. 95.** NAC 445B.336 is hereby amended to read as follows:

445B.336 A request for an alteration of any restriction on a permit relating to emissions, including but not limited to limits on emissions, operating hours and throughput of a permitted **stationary** source, must be accompanied by:

1. An application for a new **operating** permit ; **[to construct;]** and
2. The environmental evaluation required by NAC 445B.310 for **[a permit to construct.] an operating permit.**

**Sec. 96.** NAC 445B.339 is hereby amended to read as follows:

445B.339 1. A substance is a hazardous air pollutant if it is listed in on the federal list of hazardous air pollutants set forth in 42 U.S.C. § 7412(b), which is adopted pursuant to NAC 445B.221.

2. A substance is a toxic **[air contaminant] regulated air pollutant** if the commission determines that it causes or contributes to air pollution which may reasonably be anticipated to result in an increase in mortality or an increase in serious irreversible or incapacitating reversible illness, unless a federal standard for the quality of ambient air, standard for the quality of ambient air adopted by the commission, new source performance standard or national emission standard for hazardous air pollutants applies.

3. The commission may establish a lower emission rate for a hazardous air pollutant or, for radionuclides, different criteria based on:

- (a) The potency of the **[air contaminant;] regulated air pollutant;**
- (b) The persistence of the **[air contaminant;] regulated air pollutant;**
- (c) The potential for bioaccumulation;
- (d) Other characteristics of the hazardous air pollutant; or
- (e) Any other relevant factors.

**Sec. 97.** NAC 445B.341 is hereby amended to read as follows:

445B.341 1. An applicant must complete an evaluation of the best available control technology to obtain an operating permit, or the modification or renewal of an operating permit for any **[source] emission unit** of:

(a) A hazardous air pollutant that, without controls, emits at least 1 pound or an equivalent amount of the **hazardous air** pollutant per hour, but less than 10 tons per year of any single **hazardous air** pollutant **for any stationary source** or 25 tons per year of any combination of **hazardous air** pollutants **for any stationary source** ; and

(b) A toxic **[air contaminant] regulated air pollutant** that, without controls, emits at least 1 pound of the **[contaminant] toxic regulated air pollutant** per hour.

2. If the director determines that the best available control technology must be applied, the technology must be approved

by the director on a case-by-case basis before it is applied.

3. The technology may include, but is not limited to:

(a) Traditional methods such as baghouses, wet scrubbers, carbon absorbers, granular adsorbers, fluidized adsorbers, incinerators, chemical scrubbers and catalytic neutralizers.

(b) Alternative operating practices, such as a source reduction in the amount of hazardous materials used in the industrial process or prevention of pollution, or the use of substitute compounds, or both.

(c) Training in the safe application or use of the **[contaminant or pollutant.] hazardous air pollutant or toxic regulated air pollutant.**

(d) Restriction on patterns of use of the **[contaminant or pollutant] hazardous air pollutant or toxic regulated air pollutant** or locations of use of the **[contaminant or pollutant.] hazardous air pollutant or toxic regulated air pollutant.**

(e) Reclassification of the toxic **[air contaminant] regulated air pollutant** as a restricted material.

**Sec. 98.** NAC 445B.343 is hereby amended to read as follows:

445B.343 1. An applicant for **[a Class I] an** operating permit or for a modification of or a renewal of **[a Class I] an** operating permit must develop the maximum achievable control technology for:

(a) Any major source of a hazardous air pollutant; and

(b) Any area source of a hazardous air pollutant, if the administrator has established an emission limitation which applies to that **area** source.

2. The administrator may establish a lower emission rate for the hazardous air pollutant or, in the case of radionuclides, different criteria based on:

(a) The potency of the **[air contaminant;] hazardous air pollutant;**

(b) The persistence of the **[air contaminant;] hazardous air pollutant;**

(c) The potential for bioaccumulation;

(d) Other characteristics of the hazardous air pollutant; or

(e) Any other relevant factors.

**Sec. 99.** NAC 445B.345 is hereby amended to read as follows:

445B.345 1. The director shall approve maximum achievable control technology on a case-by-case basis before the owner or operator applies it to a **stationary** source. At a minimum, the technology must comply with the federal requirements for such technology.

2. For existing **stationary** sources, the degree of reduction in emissions resulting from the maximum achievable control technology must be not less stringent than the requirements set forth in 42 U.S.C. § 7412(d)(3). If the director or administrator has established an applicable emission limitation, no person may operate any **stationary** source of a hazardous air pollutant unless the director determines that the **stationary** source will comply with the emission limitation established for the maximum achievable control technology applied.

3. The maximum achievable control technology may include, but is not limited to, measures which eliminate or reduce the volume of the emission of hazardous air pollutants or, in the case of radionuclides, the mass and total activity of each species, through:

(a) Source reduction or prevention of pollution, or both;

(b) Enclosed systems or processes;

(c) Process changes, substitution of materials or other modifications;

(d) Design, equipment, work practices or operational standards, including requirements for the training or certification of an operator; or

(e) Collection, capture, filtration or treatment systems on a process, stack, storage or fugitive emissions point.

**Sec. 100.** NAC 445B.347 is hereby amended to read as follows:

445B.347 1. Before an operating permit will be issued, an analysis of the probable effect of the **[contaminant or] hazardous air pollutant or toxic regulated air pollutant** on the quality of air must conclude that the emission of the **[toxic air contaminant or] hazardous air pollutant or toxic regulated air pollutant** from the *stationary* source will not exceed the acceptable emission rate. If an unacceptable emission rate is predicted or demonstrated to occur:

(a) The best available control technology must be applied to a *stationary* source subject to NAC 445B.341 in order to achieve compliance with the acceptable rate; or

(b) The maximum achievable control technology must be applied to a *stationary* source subject to NAC 445B.343.

2. Before an operating permit will be issued, the applicant must demonstrate by monitoring, sampling of emissions or using a predictive model approved by the director that the emission rate based on the maximum achievable control technology or the best available control technology, as applicable, is not exceeded.

3. An operating permit for a *stationary* source subject to NAC 445B.341 will not be renewed unless the *stationary* source is in compliance or on an approved schedule for compliance with an acceptable emission rate upon the date specified for renewal pursuant to NAC 445B.323 or within 1 year after the emission rate is determined by the director, whichever is later, unless the commission extends the period of compliance. The schedule for compliance must require the application of the best available control technology within a reasonable time as prescribed by the director or local air pollution control agency.

**Sec. 101.** NAC 445B.349 is hereby amended to read as follows:

445B.349 Except as otherwise provided in NAC 445B.339 to 445B.351, inclusive, an owner or operator shall not cause or permit the discharge into the atmosphere from any stationary source of any **[toxic air contaminant or] hazardous air pollutant or toxic regulated air pollutant** that:

1. Exceeds the acceptable emission rate established by the director in accordance with NAC 445B.341, 445B.343 or 445B.345; or

2. Threatens the health and safety of the general public, as determined by the director.

**Sec. 102.** NAC 445B.351 is hereby amended to read as follows:

445B.351 Notice of the existence of **[toxic air contaminant or] hazardous air pollutant or toxic regulated air pollutant** at a level of 90 percent or more of the acceptable emission rate must be conspicuously posted at any point of access to the area available to the general public.

**Sec. 103.** NAC 445B.354 is hereby amended to read as follows:

445B.354 1. Unless otherwise provided in NAC 445B.354 to 445B.357, inclusive, no owner or operator may cause or permit the discharge into the atmosphere from any *stationary* source of any **[air contaminant] regulated air pollutant** for a period or periods aggregating more than 3 minutes in any 1 hour which is of an opacity equal to or greater than 20 percent.

2. NAC 445B.354 to 445B.357, inclusive, do not apply if the presence of uncombined water is the only reason for the failure of an emission to comply with those sections. The burden of proof to establish the application of this exemption is upon the person seeking to come within the exemption.

3. The continuous monitoring system for monitoring opacity at a facility must be operated and maintained by the owner or operator specified in the permit for the facility in accordance with NAC 445B.256 to 445B.267, inclusive.

**Sec. 104.** NAC 445B.362 is hereby amended to read as follows:

445B.362 1. No person may cause or permit the emission of PM<sub>10</sub> resulting from the combustion of fuel in fuel-burning equipment in excess of the quantity set forth in the following formulas:

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LCB R032-95 incorporates the temporary regulations previously adopted by the State Environmental Commission in Petition 95001, 95002, 95004, 95005 and 95010. R-032-95 became effective upon filing with the Secretary of State on October 30, 1995 by the Legislative Counsel Bureau (LCB).

(a) For input of heat equal to or greater than 4 million Btu's per hour, but less than or equal to 10 million Btu's per hour, the allowable emission is **[0.36] 0.6** of a pound per million Btu's of input of heat.

(b) For input of heat greater than 10 million Btu's per hour, but less than 4,000 million Btu's per hour, the allowable emissions must be calculated using the following equation:

$$Y = [0.6 (1.02X^{-0.231})] 1.02X^{-0.231}$$

(c) For input of heat equal to or greater than 4,000 million Btu's per hour, the emission must be calculated using the following equation:

$$Y = [0.6 (17.0X^{-0.568})] 17.0X^{-0.568}$$

2. For the purposes of paragraphs (b) and (c) of subsection 1:

(a) "X" means the operating rate in million Btu's per hour.

(b) "Y" means the allowable rate of emission in pounds per million Btu's.

**Sec. 105.** NAC 445B.363 is hereby amended to read as follows:

445B.363 1. Owners or operators of **stationary** sources not otherwise included in NAC 445B.360 to 445B.367, inclusive, shall not cause or permit PM<sub>10</sub> to be discharged from any **[single source] emission unit** into the atmosphere in excess of the allowable emission determined by the use of the formula contained in subsection 2 or 3.

2. When the maximum allowable throughput is less than 30 tons per hour, the maximum allowable weight discharged per hour must be determined by using the following equation:

$$E = [0.6 (4.10P^{0.67})] 4.10P^{0.67}$$

3. When the maximum allowable throughput equals or exceeds 30 tons per hour, the maximum allowable weight discharged per hour must be determined by using the following equation:

$$E = [0.6 (55P^{0.11} - 40)] 55P^{0.11} - 40$$

4. For the purposes of subsections 2 and 3:

(a) "E" means the maximum rate of emission in pounds per hour.

(b) "P" means the maximum allowable throughput in tons per hour.

**Sec. 105.5** NAC 445B.365 is hereby amended to read as follows:

445B.365 1. No person may cause or permit the handling, transporting or storing of any material in a manner which allows or may allow controllable particulate matter to become airborne.

2. Except as otherwise provided in subsection 4, no person may cause or permit the construction, repair, demolition or use of unpaved or untreated areas without first putting into effect an ongoing program using the best practical methods to prevent particulate matter from becoming airborne. As used in this subsection, "best practical methods" includes, but is not limited to, paving, chemical stabilization, watering, phased construction and revegetation.

3. Except as otherwise provided in subsection 4, no person may disturb or cover 5 acres or more of land or its topsoil until he has obtained [a] **an operating** permit for surface area disturbance to clear, excavate or level the land or to deposit any foreign material to fill or cover the land.

4. The provisions of subsections 2 and 3 do not apply to:

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- (a) Agricultural activities occurring on agricultural land; or
- (b) Surface disturbances authorized by a permit issued pursuant to NRS 519A.180 which occur on land which is not less than 5 acres or more than 20 acres

**Sec. 106.** NAC 445B.367 is hereby amended to read as follows:

445B.367 1. The maximum allowable weight of PM<sub>10</sub> discharged per hour for the specified discharge points **[from a single source]** at the facility of the Basic Refractory Division of Basic, Inc., at Gabbs, must be determined by the use of the following equations:

- (a) For Kiln #1 the maximum allowable emission is 20.4 lb/hr.
- (b) For calcining at Kiln #1 the allowable emission is:
- (1) For maximum allowable throughput less than 30 tons per hour:

$$E = 0.6 (0.64P^{1.12})$$

- (2) For maximum allowable throughput equal to or greater than 30 tons per hour:

$$E = 0.6 (54.55P^{0.11} - 50)$$

- (c) For Kiln #2 the maximum allowable emission is 631.2 lb/hr.
- (d) For calcining and drying at Kiln #2 the allowable emission is:

$$E = 0.6 (32.66 P)$$

2. For the purposes of subsection 1:

- (a) "E" means the emission allowed in pounds per hour.
- (b) "P" means the process weight in tons per hour.

**Sec. 107.** NAC 445B.373 is hereby amended to read as follows:

445B.373 1. No person may cause or permit the emission of compounds of sulfur caused by the combustion of fuel in fuel-burning equipment in excess of the quantity calculated by the use of the formula in subsection 2 or 3.

2. Where **[a source located on contiguous property] an emission unit** has a total input of heat of less than 250 million Btu's (63 million kg-cal) per hour the allowable emission must be calculated by the use of the following equation:

ENGLISH

METRIC

$$Y = 0.7X$$

$$(Y = 1.26X)$$

For the purposes of this subsection:

- (a) "X" means the operating input of heat in millions of Btu's (kg-cal) per hour.
- (b) "Y" means the allowable rate of emission of sulfur in pounds (kg) per hour.

3. Where **[a source located on contiguous property] an emission unit** has a total input of heat equal to or greater than 250 million Btu's (63 million kg-cal) per hour, the allowable emission of sulfur must be calculated by the use of the following equations:

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	<u>ENGLISH</u>	<u>METRIC</u>
Liquid fuel	$Y = 0.4X$	$Y = 0.7X$
Solid fuel	$Y = 0.6X$	$Y = 1.1X$
Combination	$L (0.4) - S (0.6)$	$L (0.7) - S (1.1)$
Fuel Y =	$\frac{\text{-----}}{L + S}$	$(Y = \frac{\text{-----}}{L + S})$

For the purposes of this subsection:

- (a) "X" means the input of the operation in millions of Btu's (kg-cal) per hour.
- (b) "Y" means the allowable rate of emissions of sulfur in pounds (kg) per hour.
- (c) "L" means the percentage of total input of heat derived from liquid fuel.
- (d) "S" means the percentage of total input of heat derived from solid fuel.

**Sec. 108.** NAC 445B.374 is hereby amended to read as follows:

445B.374 1. No person may cause or permit the emission of sulfur compounds where the sulfur originates in the material being processed, excluding hydrogen sulfide and sulfur from all solid, liquid or gaseous fuel, in excess of the quantity determined by the following equation:

<u>ENGLISH</u>	<u>METRIC</u>
$E = 0.292P^{0.904}$	$(E = 0.271P^{0.904})$

when "E" is equal to or greater than 10 pounds (5 kilograms) per hour. When "E" is less than 10 pounds (5 kilograms) per hour, the gas stream concentration must not exceed 1,000 ppm by volume.

2. For the purposes of subsection 1:

- (a) "E" means the allowable sulfur emission in pounds (kilograms) per hour.
- (b) "P" means the total feed sulfur, excluding hydrogen sulfide, in pounds (kilograms) per hour.

3. When sulfur emissions are due to sulfur contributions from both the fuel and the material being processed, the allowable emissions must be the sum of those allowed by NAC 445B.373 to 445B.376, inclusive.

4. Incinerators used solely for the control of odor by the combustion of noxious sulfur containing compounds are exempt from NAC 445B.370 to 445B.376, inclusive, and are governed by NAC 445B.287 to 445B.331, inclusive, and NAC 445B.360 to 445B.367, inclusive.

5. A person shall not cause or permit the emission of any gas containing hydrogen sulfide which is discharged to the atmosphere from any **[source] emission unit** unless the **[source] emission unit** is vented, incinerated, flared or the stream is otherwise disposed of, in a manner such that the ambient sulfur dioxide standards and the ambient hydrogen sulfide standards are not exceeded. Before construction, compliance with the ambient standards must be based on the applicable models, bases and other requirements specified in "Guideline on Air Quality Models" (Revised) EPA 450/2-78-027R, published by the United States Environmental Protection Agency. The publication as it exists on August 1, 1986, is adopted by reference. A copy of the publication may be obtained from the National Technical Information Service, United States Department of Commerce, Springfield, Virginia 22161, for the price of \$31.

**Sec. 109.** NAC 445B.391 is hereby amended to read as follows:

**445B.391** 1. The table contained in this section lists the minimum standards of quality for ambient air.

NEVADA STANDARDS <sup>A</sup>			NATIONAL STANDARDS <sup>B</sup>			
POLLUTANT	AVERAGING TIME	CONCENTRATION	METHOD <sup>D</sup>	PRIMARY <sup>C,E</sup>	SECONDARY <sup>C,E</sup>	METHOD <sup>D</sup>
Ozone	1 Hour	235 F g/m <sup>3</sup> (0.12 ppm)	Chemiluminescent	235 F g/m <sup>3</sup> (0.12 ppm)	Same as Primary	Chemiluminescent
Ozone-Lake Tahoe Basin, #90	1 Hour	195 F g/m <sup>3</sup> (0.10 ppm)				
Carbon Monoxide less than 5,000' above Mean Sea Level		10,000 F g/m <sup>3</sup> (9.0 ppm)		10 mg/m <sup>3</sup>		
At or greater than 5,000' above Mean Sea Level	8 Hours	6,670 F g/m <sup>3</sup> (6.0 ppm)	Nondispersive Infrared	(9.0 ppm)	Same as Primary	Nondispersive Infrared
Carbon Monoxide at any elevation	1 Hour	40,000 F g/m <sup>3</sup> (35 ppm)		40 mg/m <sup>3</sup> (35 ppm)		
Nitrogen Dioxide	Annual Arithmetic Mean	100 F g/m <sup>3</sup> (0.05 ppm)	Chemiluminescent	100 F g/m <sup>3</sup> (0.05 ppm)	Same as Primary	Chemiluminescent
	Annual Arithmetic Mean	80 F g/m <sup>3</sup> (0.03 ppm)		80 F g/m <sup>3</sup> (0.03 ppm)	Same as Primary	
Sulfur Dioxide	24 Hours	365 F g/m <sup>3</sup> (0.14 ppm)	Ultraviolet Fluorescence	365 F g/m <sup>3</sup> (0.14 ppm)		Pararosaniline Method
	3 Hours	1,300 F g/m <sup>3</sup> (0.5 ppm)		None	1,300 F g/m <sup>3</sup>	
Particulate Matter as PM <sub>10</sub>	Annual Arithmetic Mean	50 F g/m <sup>3</sup>	High Volume PM <sub>10</sub> Sampling	50 F g/m <sup>3</sup>	Same as Primary	High Volume PM <sub>10</sub> Sampling
	24 Hours	150 F g/m <sup>3</sup>		1.5 F g/m <sup>3</sup>		
Lead (PB)	Quarterly Arithmetic Mean	1.5 F g/m <sup>3</sup>	High Volume Sampling, Acid Extraction and Atomic Absorption Spectrometry	1.5 F g/m <sup>3</sup>	Same as Primary	High Volume Sampling Acid Extraction and Atomic Absorption Spectrometry
Visibility	Observation	In sufficient amount to reduce the prevailing visibility <sup>G</sup> to less than 30 miles when humidity is less than 70%	Observer or camera	--	--	--
Hydrogen Sulfide	1 Hour	112 F g/m <sup>3 H</sup> (0.08 ppm)	Cadmium Hydroxide Stractan Method	--	--	--

Notes:

Note A: These standards must not be exceeded in areas where the general public has access.

Note B: These standards, other than for ozone and those based on annual averages, must not be exceeded more than once per year. The ozone standard is attained when the expected number of days per calendar year with a maximum hourly average concentration above the standard is equal to or less than one.

Note C: Concentration is expressed first in units in which it was adopted and is based upon a reference temperature of 25EC and a reference pressure of 760 mm of mercury. All measurements of air quality must be corrected to a reference temperature of 25EC and a reference pressure of 760 mm of Hg (1,013.2 millibars); ppm in this table refers to ppm by volume, or micromoles of **regulated air** pollutant per mole of gas.

Note D: Any reference method specified in accordance with 40 C.F.R. Part 50 or any reference method or equivalent method designated

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in accordance with 40 C.F.R. Part 53 may be substituted.

Note E: National primary standards are the levels of air quality necessary, with an adequate margin of safety, to protect the public health.

Note F: National secondary standards are the levels of air quality necessary to protect the public welfare from any known or anticipated adverse effects of a **regulated air** pollutant.

Note G: For the purposes of this section, prevailing visibility means the greatest visibility which is attained or surpassed around at least half of the horizon circle, but not necessarily in continuous sectors.

Note H: The ambient air quality standard for hydrogen sulfide does not include naturally occurring background concentrations.

2. All values are corrected to reference conditions.

3. As used in this section:

(a) "F g/m<sup>3</sup>" means micrograms per cubic meter.

(b) "Ppm" means part per million by volume.

4. These standards of quality for ambient air are minimum goals and it is the intent of the state environmental commission in this section to protect the existing quality of Nevada's air to the extent that it is economically and technically feasible.

**Sec. 110.** NAC 445B.393 is hereby amended to read as follows:

445B.393 1. No person may discharge or cause to be discharged, from any **stationary** source, any material or **[air contaminant] regulated air pollutant** which is or tends to be offensive to the senses, injurious or detrimental to health and safety, or which in any way interferes with or prevents the comfortable enjoyment of life or property.

2. The director shall investigate an odor when 30 percent or more of a sample of the people exposed to it believe it to be objectionable in usual places of occupancy. The sample must be at least 20 people or 75 percent of those exposed if fewer than 20 people are exposed.

3. The director shall deem the odor to be a violation if he is able to make two odor measurements within a period of 1 hour. These measurements must be separated by at least 15 minutes. An odor measurement consists of a detectable odor after the odorous air has been diluted with eight or more volumes of odor-free air.

**Sec. 111.** Sections 87 and 88 of the regulation adopted by the state environmental commission and filed with the secretary of state on December 13, 1993, designated as LCB File No. R138-93, are hereby amended to read as follows:

Sec. 87. 1. NAC 445.694 is hereby repealed.

2. NAC 445.716, 445.7175, 445.718, 445.7185 and 445.8435 are hereby repealed.

Sec. 88. 1. This section and sections 1, 2, 12, 13, 15, 19, 20, 22, 24, 27, 51, 52, 54 to 70, inclusive, 72, 78, 80 to 86, inclusive, and subsection 2 of section 87 of this regulation become effective upon the filing of this regulation with the secretary of state.

2. Sections 77 and 79 of this regulation become effective on July 1, 1994.

3. Sections 3, 4, 5, 7, 14, 16, 17, 18, 21, 23, 25, 26, 28, 29, 33, 35, 44, 48, 49, 53, 71, 74, 75 and subsection 1 of section 87 of this regulation become effective on November 15, 1994.

4. Sections 6, 8, 9, 10, 11, 30, 31, 32, 34, 36 to 43, inclusive, 45, 46, 47, 50, 73 and 76 of this regulation become effective upon the approval by the Administrator of the United State Environmental Protection Administration of the program for issuing operating permits to Class I sources that complies with the requirements of 40 C.F.R. Part 70.

**Sec. 112.** Section 40 of the regulation adopted by the state environmental commission and filed with the secretary of state on March 29, 1994, designated as LCB File No. R015-94, is hereby amended to read as follows:

Sec. 40. 1. This section and sections 1, 2, 3, 18 and 25 of this regulation become effective upon filing with the secretary of state.

Petition 95010 (LCB File No. R-032-95) was adopted by Environmental Commission on October 3, 1995.

LCB R032-95 incorporates the temporary regulations previously adopted by the State Environmental Commission in Petition 95001, 95002, 95004, 95005 and 95010. R-032-95 became effective upon filing with the Secretary of State on October 30, 1995 by the Legislative Counsel Bureau (LCB).

**CODIFIED 2/26/96**

2. Sections 5 to 9, inclusive, 11 to 14, inclusive, 16, 17, 20, 21, 22 and 26 to 39, inclusive of this regulation become effective on November 15, 1994.

3. Sections 4, 10, 15, 19, 23 and 24 of this regulation become effective upon the approval by the Administrator of the United States Environmental Protection Administration of the program for issuing operating permits to Class I sources that complies with the requirements of 40 C.F.R. Part 70.

**Sec. 113.** 1. NAC 445B.132, 445B.137, 445B.170 are hereby repealed.

2. NAC 445B.301, is hereby repealed.

**Sec. 114.** 1. This section and sections 1 to 11, inclusive, 13, 14, 15, 19 to 63, inclusive, 67, 68, 71, 72, 74, 76 to 80, inclusive, 84, 85, 91, 92, 93, 95 to 112, inclusive and subsection 1 of section 113 of this regulation become effective upon the filing of this regulation with the secretary of state.

2. Sections 12, 16, 17, 18, 64, 65, 66, 69, 70, 73, 75, 81, 82, 83, 86, 87, 88, 90, 94 and subsection 2 of section 113 of this regulation become effective upon the approval by the Administrator of the United States Environmental Protection Administration of the program for issuing operating permits to Class 1 sources that complies with the requirements of 40 C.F.R. Part 70.

3. The amendatory provisions of sections 72 and 89 of this regulation expire by limitation upon the approval by the Administrator of the United States Environmental Protection Administration of the program for issuing operating permits to Class I sources that complies with the requirements of 40 C.F.R. Part 70.

**END OF LCB R032.95**

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TEXT OF REPEALED SECTIONS UPON  
FILING OF THIS REGULATION WITH  
THE SECRETARY OF STATE

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**445B.132 "Permit to construct" defined.**

1. "Permit to construct" means a document issued and signed by the director certifying that:
  - (a) Adequate empirical data for a single source has been received and constitutes approval of location; or
  - (b) All portions of NAC 445B.300 to 445B.313, inclusive, and any other provisions of NAC 445B.001 to 445B.395, inclusive, have been complied with and constitutes approval of location and for construction.
2. The director may place restrictions on a permit to construct if he deems it necessary.

**445B.137 "Portable source" defined.** "Portable source" means any building, structure, facility or installation which:

1. Emits or may emit any air contaminant;
2. May be moved from one location to another; and
3. Is located or operated in a location for a period of less than 12 months.

**445B.170 "Single source" defined.** "Single source" means all similar process operations located at a single premise which can technically and economically be replaced by a single piece of equipment that performs the same function.

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TEXT OF SECTION REPEALED UPON APPROVAL  
OF PROGRAM FOR ISSUING OPERATING PERMITS  
TO CLASS I SOURCES

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**445B.301 Permits to construct: Provisions applicable to certain permits affected by federal regulations for prevention of significant deterioration of air quality. [Effective until November 15, 1994.]** The following provisions apply to a permit to construct a new facility regulated by 40 C.F.R. § 52.21 or a permit to construct for modifications to an existing major stationary source, as defined by 40 C.F.R. § 52.21:

1. Within 30 working days after receiving an application for a permit to construct, the director shall determine whether any additional information is needed. Within 180 days after receiving the additional information, the director shall make a preliminary determination to issue or deny a permit. The director shall give notice of his preliminary intent to issue or deny the permit within 180 days after receiving the additional information for reviewing the application.

2. The director's review and statement of preliminary intent to issue or deny a permit to construct must be made public in accordance with the provisions of 40 C.F.R. § 52.21 and maintained on file with the director during normal business hours at 123 West Nye Lane, Carson City, Nevada. The director shall, in a newspaper of general circulation in the general area where the source is located, cause to be published once per week for 3 weeks a notice which contains a summary of his preliminary intent to issue or deny the permit. The notice must also include the address of the place where interested persons may review the complete written version of the director's review and statement of preliminary intent. The director shall accept all comments from the public regarding the review and preliminary intent for a 30-day period beginning on the date of the final publication of the notice. All comments on the director's review and preliminary intent for issuance or denial which are not made at a public hearing on the subject must be submitted in writing to the director during this period.

3. Within 180 days after the close of the 30-day period for public comment, the director shall issue or deny the application for a permit to construct. The director shall make his decision by taking into account:

- (a) The written comments so submitted;
- (b) The comments made by the members of the public during public hearings on the director's review and preliminary intent for issuance or denial;
- (c) Any comments submitted on behalf of the United States Environmental Protection Agency;
- (d) The information submitted by proponents of the project; and
- (e) The effect of such a facility on the maintenance of the ambient air quality standards contained in NAC 445B.391.

4. Except as otherwise provided in this subsection, a permit issued pursuant to subsection 3 becomes effective 30 days after the issuance of the director's final determination. Any appeal of the director's decision pursuant to subsection 3 must be filed with the director within 30 days after the issuance of the director's final determination. If such an appeal is filed, the permit does not become effective unless and until the director thereafter declares its effectiveness.

5. A permit to construct only expires if:

- (a) Construction of a new facility or modifications to an existing major stationary source are not commenced within 18 months after the date of issuance thereof; or
- (b) In accordance with the provisions of 40 C.F.R. § 52.21, construction of a new facility or modifications to a major stationary source are delayed for 18 months after the construction or modifications are initiated.

END OF REGULATION R-032-95